

<p>CARNEGIE FORUM 305 WEST PINE STREET LODI, CALIFORNIA</p>	<p><b>AGENDA</b> <b>LODI</b> <b>PLANNING COMMISSION</b></p>	<p>REGULAR SESSION WEDNESDAY, JULY 9, 2008 @ 7:00 PM</p>
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For information regarding this agenda please contact:

**Kari Chadwick @ (209) 333-6711**  
**Community Development Secretary**

***NOTE:** All staff reports or other written documentation relating to each item of business referred to on the agenda are on file in the Office of the Community Development Department, located at 221 W. Pine Street, Lodi, and are available for public inspection. If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof. To make a request for disability-related modification or accommodation contact the Community Development Department as soon as possible and at least 24 hours prior to the meeting date.*

1. ROLL CALL
2. MINUTES – None
3. PUBLIC HEARINGS
  - a. Request for Planning Commission approval of a Use Permit to allow a Type-41 on-sale beer and wine license at Midtown Taqueria located at 1040 West Kettleman Lane Suite 4. (Applicant: Joe Doumit.; File Number: 08-U-07)  
CEQA Status: Exempt Resolution#: PC 08-17
  - b. Request for the Planning Commission to amend conditions of approval for the project site plan and architecture for the building located at 335 East Kettleman Lane (Applicant, Kenneth J. Gini, File # 07-SP-02).  
CEQA Status: Exempt Resolution#: PC 08-18
- NOTE: The above item is a quasi-judicial hearing and requires disclosure of ex parte communications as set forth in Resolution No. 2006-31**
4. PLANNING MATTERS/FOLLOW-UP ITEMS
  - a. Update Planning Commission on Vineyard Christian Middle School Use Permit, 2301 West Lodi Avenue.
  - b. Update Planning Commission on Wine Country Card Room Use Permit, 1800 South Cherokee Lane
  - c. Appoint two representatives from the Planning Commission to attend Development Code Update workshop style meetings.
5. ANNOUNCEMENTS AND CORRESPONDENCE
6. ACTIONS OF THE CITY COUNCIL
  - a. Summary Memo attached.
7. GENERAL PLAN UPDATE/DEVELOPMENT CODE UPDATE
  - a. Discussion of possible Heritage Tree Ordinance.
8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

9. ART IN PUBLIC PLACES

10. COMMENTS BY THE PUBLIC

11. COMMENTS BY THE PLANNING COMMISSIONERS & STAFF

12. REORGANIZATION

- a. Planning Commission Chair & Vice Chair
- b. Appoint Planning Commission Representative to SPARC, Art In Public Places, and Greenbelt Task Force.

13. ADJOURNMENT

Pursuant to Section 54954.2(a) of the Government Code of the State of California, this agenda was posted at least 72 hours in advance of the scheduled meeting at a public place freely accessible to the public 24 hours a day.

*\*\*NOTICE: Pursuant to Government Code §54954.3(a), public comments may be directed to the legislative body concerning any item contained on the agenda for this meeting before (in the case of a Closed Session item) or during consideration of the item.*

Right of Appeal:

If you disagree with the decision of the commission, you have a right of appeal. Only persons who participated in the review process by submitting written or oral testimony, or by attending the public hearing, may appeal.

Pursuant to Lodi Municipal Code Section 17.72.110, actions of the Planning Commission may be appealed to the City Council by filing, within ten (10) business days, a written appeal with the City Clerk and payment of \$300.00 appeal fee. The appeal shall be processed in accordance with Chapter 17.88, Appeals, of the Lodi Municipal Code. Contact: City Clerk, City Hall 2<sup>nd</sup> Floor, 221 West Pine Street, Lodi, California 95240 – Phone: (209) 333-6702.

Item 3a.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** July 9, 2008

**APPLICATION NO:** Use Permit: 08-U-07

**REQUEST:** Request for Planning Commission approval of a Use Permit to allow a Type-41 on-sale beer and wine license at Midtown Taqueria located at 1040 West Kettleman Lane Suite 4.  
(Applicant: Joe Doumit. File Number: 08-U-07)

**LOCATION:** 1040 West Kettleman Lane, Suite 4  
APN: 060-040-19

**APPLICANT:** Joe Doumit  
3754 J Street  
Sacramento, CA 95816

**PROPERTY OWNER:** The same as above.

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Joe Doumit for a Use Permit to allow a Type-41 on-sale beer and wine license at Midtown Taqueria located at 1040 West Kettleman Lane Suite 4, subject to the conditions in the attached resolution.

**PROJECT/AREA DESCRIPTION**

**General Plan Designation:** NCC, Neighborhood Community Commercial  
**Zoning Designation:** PD, Planned Development (15)  
**Property Size:** 79,715 sq. ft. (Restaurant is approximately 3,600 square feet.)

The adjacent zoning and land use are as follows:

**North:** C-S, Commercial Shopping. Various retail and commercial shops are located north of the project site.

**South:** LDR, Low Density Residences.

**East:** C-S, Commercial Shopping. A grocery store and various retail establishments are located east of the project site.

**West:** C-S, Commercial Shopping. Restaurants, shops and residential lots are located west of the project site.

**SUMMARY**

The applicant, Mr. Joe Doumit, is requesting approval for a Use Permit to allow a Type-41 on-sale beer and wine license at Midtown Taqueria. The project area contains a variety of commercial businesses such as a grocery store, restaurants and various retail stores. The census tract for the project site currently does not have an over concentration of liquor licenses. Since Midtown Taqueria is a full service restaurant, staff does not anticipate any problems with issuing an additional liquor license. Staff is recommending that the Planning Commission

approve the request for an on-sale alcohol license subject to the conditions in the attached resolution.

## **BACKGROUND**

Midtown Taqueria is a restaurant that wishes to operate in the City of Lodi. The applicant is a restaurant owner and operator in the city of Sacramento. The applicant also owns the subject property. The subject property was previously used by a pizzeria with an ABC Type 41 License. However, the pizzeria has been out of business since March of this year and the owner of the previous business returned the ABC License to the Department of Alcoholic Beverage Control. In accordance with the Department of Alcoholic Beverage Control who require that all new business must obtain its own ABC License, the applicant has applied for ABC License and must obtain a conditional Use Permit for Midtown Taqueria from the City. To increase sales and attract customers, the applicant is requesting approval from the City to serve beer and wine at the restaurant.

## **ANALYSIS**

According to the applicant, Midtown Taqueria will offer a full breakfast, lunch and dinner menu of authentic Mexican favorites such as: tacos, burritos, nachos, tostadas, quesadillas and various combination plates. The restaurant will open from the hours of 9:00 a.m. to 9:00 p.m. Monday through Saturday and 10:00 a.m. to 8:00 p.m. on Sunday. The restaurant is approximately 3,600 square feet in size and provides seating for approximately 35-40 guests based on the floor plan provided by the applicant. On site parking is provided in the plaza which satisfies the parking requirement. In accordance with the State Department of Alcoholic Beverage Control (ABC) requirements, receipts from alcohol sale shall not be in excess of food sales receipts. ABC requires that restaurants with alcohol license must operate and maintain the premise as a bona fide eating establishment. Staff has contacted the Lodi Police Department for comment on the proposed on-sale beer and wine application and they do not anticipate alcohol related problems with the restaurant.

Section 17.72.040 of the Lodi Municipal Code requires a Use Permit for new Off-Sale and On-Sale alcohol licenses as well as changes in license type. The City established the Use Permit requirement to gain local control over whether or not a license is appropriate for a particular location. ABC primarily controls issuance based on concentration of licenses within a particular Census Tract. Census Tract 43.06 covers the area south of Kettleman Lane, west of Sacramento Street, north of Harney Lane, and east of Ham Lane. According to ABC, Census Tract 43.06 contains 7 existing on-sale licenses with 8 on-sale licenses allowed based on the ABC criteria. Because there is no over concentration, the Planning Commission is not required to make a finding of public necessity or convenience in order to approve the on-sale general license upgrade. However, the Planning Commission will need to determine whether or not to grant the request based on the use and the location of the project.

Since Midtown Taqueria is a restaurant that would like to sell beer and wine with food, staff does not anticipate the alcohol sales portion of the business to create any problems. This operation would be similar to other restaurants within Lodi. The Planning Commission and the Planning staff have generally supported restaurants that wish to acquire an ABC on-sale beer and wine license because restaurants that serve beer and wine in conjunction with food sales have not created alcohol related problems. If problems or concerns related to the sale of alcoholic beverages occur in the future, staff and/or the Planning Commission may initiate a public hearing where the Commission would have the ability to amend conditions or revoke the Use Permit.

**ENVIRONMENTAL ASSESSMENTS:**

The project was found to be categorically exempt according to the California Environmental Quality Act, Article 19, Guidelines §15321, Class 21 (a) (2). The project is classified as an "Enforcement Action by Regulatory Agencies" because it is the "adoption of an administrative decision or order enforcing...the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective." No significant impacts are anticipated and no mitigation measures have been required.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on June 29, 2008 and 46 public hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by Government Code §65091 (a) (3).

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

- Approve the request with alternate conditions
- Deny the request
- Continue the request

Respectfully Submitted,

Concur,

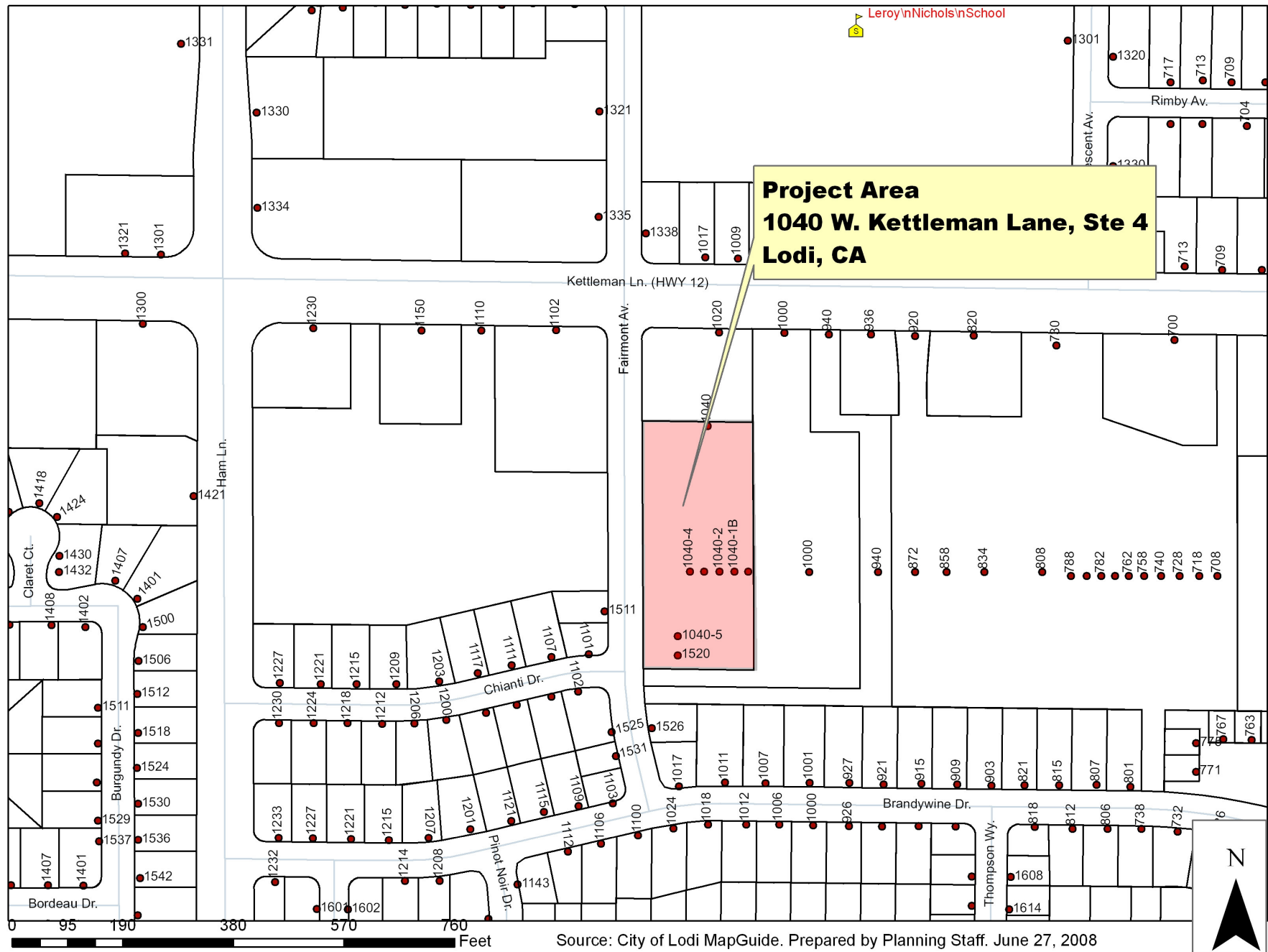
Immanuel Bereket  
Junior Planner

Peter Pirnejad  
Planning Manager

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial Map
3. Floor Plan
4. Menu
5. Names and locations of existing ABC Licenses on Tract 43.06
6. Draft Resolution

# Vicinity Map



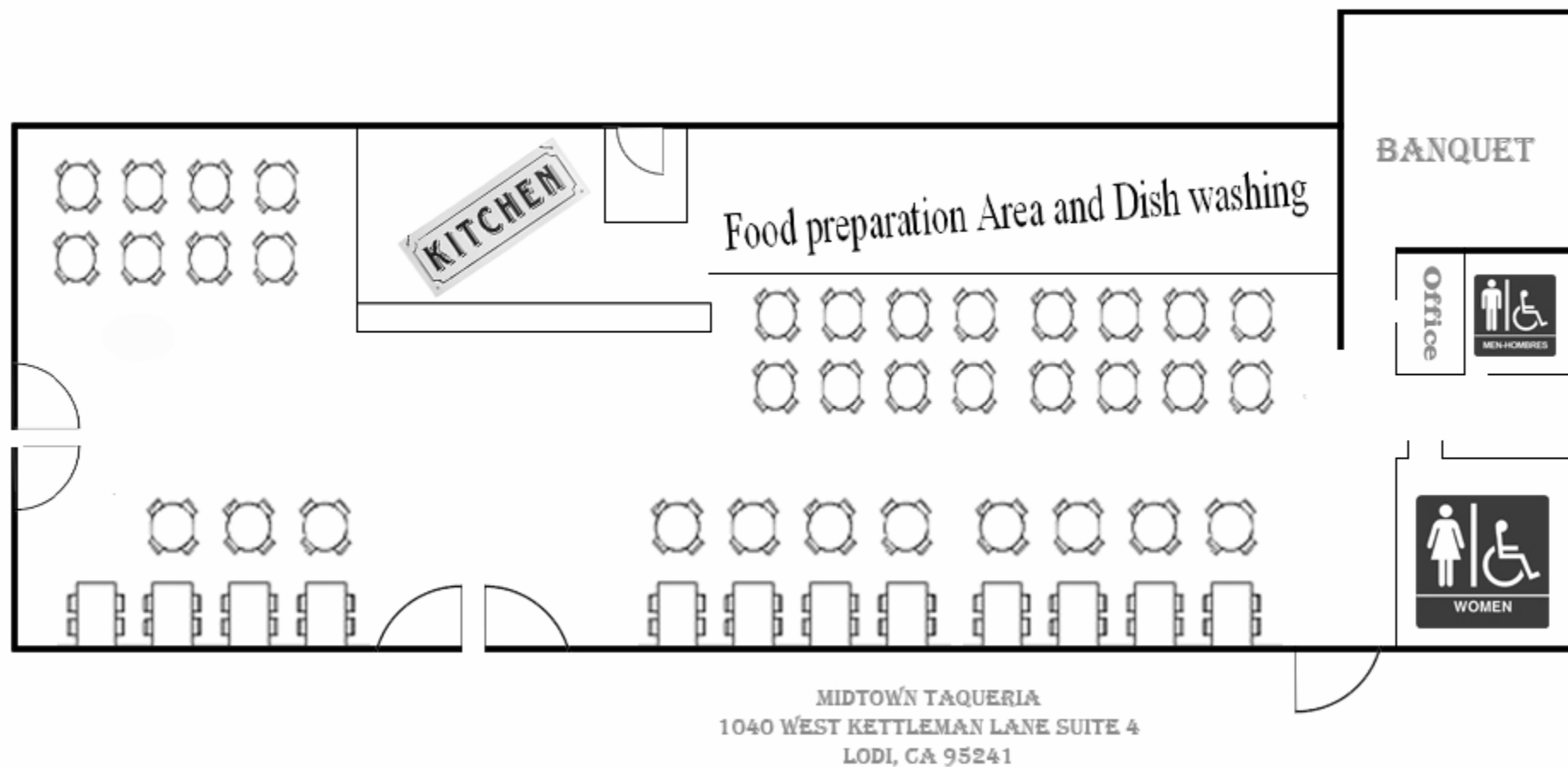


# Aerial Map





## Floor Plan



- Torta - Meat, Cheese, Sour Cream, 5.38  
 acamole, Lettuce, And Tomatoes  
 Torta Ahogada - Pork, Refried Beans, Hot Sauce, 5.38  
 & Onions

## Tortas

## Breakfast

Breakfast plate is served with rice, refried beans, lettuce, tomatoes, & choice of tortillas

- Huevos Con Jamon - Scrambled eggs with Ham 7.19  
 Huevos Con Chorizo - Scrambled eggs with Sausage 7.19  
 Huevos Con Tosino - Scrambled eggs with Bacon 7.19  
 Huevos Rancheros - Two Sunny side eggs on tortilla 7.19  
 \*add any meat for \$1.00 more  
 Vegetarian Burrito - Egg with stewed tomatoes, rice, 5.00  
 Cheese, Beans, and Salsa  
 Breakfast Burrito - Eggs with Ham or Bacon or 5.00  
 Sausage, Cheese, Beans, and Salsa  
 Mochaca - Scrambled Eggs with Beef, Tomato 7.19  
 Onion, Jalapino & Red Salsa  
 Pozole 5.52



## Drinks

- \*Fountain Drinks: 1.86  
 Cola, Diet Cola, Sprite, Lemonade, Nestea, Mr. Pibb  
 \*Agua Fresca: 1.86  
 Horchata (Rice Water) Pina, Jamaica, Melon  
 \*Bottle Drinks: 2.09  
 Coca Cola, Pina, Naranja, Limon, Mandarine  
 \*Cervezas Bottles: Corona, Pacifico, Modelo 3.25  
 \*Cervezas Mexicanas Draft Glass 3.02 Pitcher 9.97  
 \*Bud Lite Draft Glass 2.78 Pitcher 9.14  
 \*Margaritas 3.75  
 \*Wine 2.95



## Menudo

Sabado Y Domingo  
 Saturday & Sunday \$5.52

Choice of Beans:  
 Refried, Black or Pinto Beans

POZOLE DAILY 5.52

### Meat Choices

- Asada.....Beef  
 Pollo..... Boiled Chicken  
 Pollo Asado.....Grilled Chicken  
 Carnitas.....Shredded Pork  
 Al Pastor.....Mex. BBQ Pork  
 Chile Verde.....Green Chile Pork  
 Chille Colorado..... Red Chile Pork  
 Chorizo.....Sausage  
 Buche  
 Lengua

# East Sac Midtown taqueria

*Authentic Flavors of Mexico*

Enjoy the best traditional dishes,  
 prepared with the highest quality ingredients.

### Daily Specials

3754 J Street  
 (916) 452 -7551

Open Daily 9am—11pm  
 Breakfast, Lunch & Dinner



Watch Your Favorite Sports  
 On Our HD TV!  
 Cervezas Special During Games

We do Catering & Delivery  
 Free Salsa Bar



# Tacos



<b>Regular</b>	- Choice of Meat, Onion, Cilantro & Salsa, on Soft Tortilla	1.76
<b>Super</b>	- Choice of Meat, Cheese, Guacamole, Sour Cream, Lettuce, Tomatoes on Soft Tortilla	3.53
<b>Vegetarian</b>	- Beans, Rice, Salsa, Cheese, Guacamole, Sour Cream, Lettuce, Tomatoes on Soft Tortilla	3.53
<b>Crispy</b>	- Meat, Guacamole, Sour Cream, Lettuce, Cheese, & Salsa on Crispy Corn Tortilla	2.92
<b>Taco Salad</b>	- Choice of Meat or Vegetarian with Beans, Rice, Salsa, Cheese, Guacamole, Sour Cream, Lettuce, and Tomatoes	5.43
<b>Fish Taco</b>	- Grilled Fish, Lettuce, Tomatoes & Salsa	2.37
<b>Super</b>	- Fish or Shrimp Taco	3.99

# Nachos



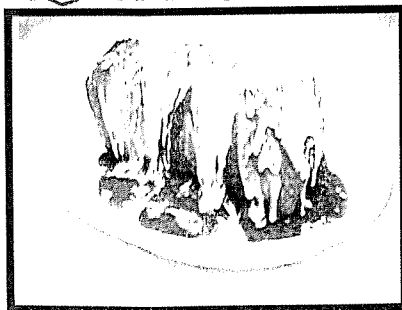
<b>Regular</b>	- Jack Cheese, Guacamole, Salsa, Sour Cream, and Beans	3.57
<b>Regular</b>	- plus meat	4.59
<b>Super Nachos</b>	- Larger Sized of Regular with Meat	5.52

# Quesadillas

<b>Regular</b>	- Flour Tortilla with melted Cheese	2.60
<b>Regular Plus Meat</b>		3.43
<b>Super</b>	- Meat, Sour Cream, Guacamole, Salsa & Lettuce	4.64
<b>Vegetarian</b>	- Same as super with no Meat	4.64
<b>Grande</b>	- Same as Super with Larger Tortilla	5.43



# Burritos



<b>Regular</b>	- Choice of Meat, Whole Beans, Rice, & Salsa	5.10
<b>Super</b>	- Meat, Beans, Rice, Salsa, Guacamole, Sour Cream, and Cheese	5.43
<b>Jumbo</b>	- Same as Super plus Lettuce	5.99
<b>Vegetarian</b>	- Rice, Beans, Salsa, Guacamole, Sour Cream, Lettuce, & Cheese	5.10
<b>Shrimp or Fish Burrito</b>	- Rice, Beans, Salsa, Guacamole, Sour Cream, Cheese	6.73
<b>Jr. Burrito</b>	- With Refried Beans and Cheese	3.57
<b>Wet Burrito</b>	- With Enchilada Sauce and Melted Cheese	add only 1.58
<b>Chimichanga</b>		5.43



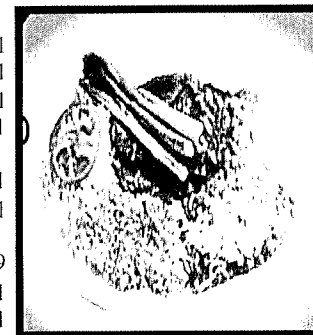
# Tostadas

<b>Regular</b>	- Choice of meat, Refried Beans, Lettuce, sour cream, Guacamole, Salsa, Tomatoes	3.71
<b>Vegetarian</b>	- Same as regular with whole beans, no meat	3.71
<b>Pescado o Camaron</b>	- Fish or Shrimp	3.99

# Platillos Special Plates

Special Plates are served with rice, Refried beans, sour cream, guacamole, lettuce, tomatoes, & choice of flour or corn tortillas.

<b>Carne Asada</b>	- Two Pieces of Sirloin Steak Grilled	9.61
<b>Steak Ranchero</b>	- Grilled with Jalepenos, Onions, and Tomatoes	9.61
<b>Pollo Asada</b>	- Grilled Chicken	9.61
<b>Carnitas</b>	- Shredded Pork	9.61
<b>AL PASTOR</b>	- Mexican BBQ Pork	9.61
<b>Steak a la Mexicana</b>	- Marinated Steak Grilled with Onions, Tomatoes & Bell Pepper	9.61
<b>Flautas de Pollo</b>	- Fried Chicken Taquitos	9.61
<b>Fajitas</b>	- Choice of Beef, Chicken, Pork, Grilled Tomato, Onion, Bell Pepper	9.61
<b>Enchiladas</b>	- Choice of Beef, Chicken, or Cheese	2 7.89 3 9.61
<b>Tamales</b>	- 2 Chicken or Pork Tamales: Rice, Salsa, Lettuce, Beans	9.61
<b>Chille Relleno</b>	- Pasilla with Cheese inside	9.61
<b>Combo Plate</b>	- Shrimp with Steak, Chicken or Pork	10.67



# Mariscos Seafood Plates

Special Plates are served with rice, Refried beans, Avacado lettuce, tomatoes, & choice of flour or corn tortillas.

<b>Pescado Platillo</b>	- Fish Filet Fried or Grilled	10.16
<b>A La Diabla</b>	- Spicy Prawns	10.16
<b>Al Mojo</b>	- Garlic Prawns	10.16
<b>Rancheros</b>	- Grilled Prawns, Onion, Tomatos, Jalepinos	10.16
<b>Mojarras</b>	- Whole Fish fried	10.16
<b>Quesadillas Marina</b>	- Seafood Quesadillas with Sour Cream, Guacamole, Lettuce, Cheese, & Salsa	8.82
<b>Enchiladas Marina</b>	- Seafood Enchiladas with Rice, Beans, Sour Cream, Guacamole, Lettuce, Tomato	8.82
<b>Camaron A Laplauche Shrinmp Fajitas</b>	- Grilled Onion, Tomatos, Bell Pepper	10.16
<b>Cockteles Camaron</b>	- Shrimp Cocktail	9.28
<b>Ceviche</b>		3.81





California Department of Alcoholic Beverage  
Control  
For the County of **SAN JOAQUIN - (On-Sale  
Licenses)**  
**and Census Tract = 0043.06**

Report as of 7/2/2008

	License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1)	<u>179005</u>	ACT	40	11/18/1985	5/31/2009	LODI ATHLETIC CLUB L-PHIP 1900 S HUTCHINS ST LODI, CA 95240  Census Tract: 0043.06	TWIN ARBORS ATHLETIC CLUB	11290 PYRITES WAY GOLD RIVER, CA 95670	9902
2)	<u>339719</u>	ACT	47	3/4/2008	2/28/2009	MARTINEZDEROJAS MARIA G 728 W KETTLEMAN LN LODI, CA 95240  Census Tract: 0043.06	EL ROSAL		9902
3)	<u>348530</u>	ACT	41	11/17/1998	7/31/2008	JIU SHANGUO 1110 W KETTLEMAN LN LODI, CA 95240  Census Tract: 0043.06	YEN CHING		9902
4)	<u>423907</u>	ACT	41	5/16/2005	4/30/2009	ANAYAMORALES VICTOR 1413 S CHURCH ST LODI, CA 95240  Census Tract: 0043.06	MAR Y TIERRA RESTAURANT	603 S CENTRAL AVE LODI, CA 95240	9902
5)	<u>423501</u>	ACT	41	1/26/2006	12/31/2008	VELVET RESTAURANTS INC 1421 S HAM LN LODI, CA 95242  Census Tract: 0043.06	VELVET GRILL & CREAMERY	25 SIERRA VISTA RD SANTA BARBARA, CA 93106	9902
6)	<u>424723</u>	ACT	41	5/19/2005	4/30/2009	PRIETO JORGE 226 W KETTLEMAN LN LODI, CA 95240  Census Tract: 0043.06	HAPPY BURRO MEXICAN RESTAURANT		9902
7)	<u>434242</u>	ACT	47	2/10/2006	1/31/2009	SANCHEZ ELENA 1110 W KETTLEMAN LN LODI, CA 95240  Census Tract: 0043.06	CASA MEXICANA		9902

--- End of Report ---

For a definition of codes, view our [glossary](#).

**RESOLUTION NO. P.C. 08-17**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF JOE DOUMIT FOR A USE PERMIT TO ALLOW ON-SALE BEER AND WINE AT TAQUERIA SANTA CRUZ LOCATED AT 2533 WEST KETTLEMAN LANE SUITE 403.  
(FILE # 08-U-07)**

**WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Use Permit, in accordance with the Lodi Municipal Code Section 17.72.070; and

**WHEREAS**, the project proponent is Joe Doumit; and

**WHEREAS**, the property owner is Joe Doumit., 3754 J Street., Sacramento, CA 95816; and

**WHEREAS**, the property is located at 1040 West Kettleman Lane Suite 4, Lodi, CA (APN 027-420-14); and

**WHEREAS**, the property has a General Plan designation of NCC, Neighborhood Community Commercial and is Zoned P-D, Planned Development; and

**WHEREAS**, the Use Permit to allow the sale of beer and wine for on-site consumption within the restaurant is an enforcement action in accordance with the City of Lodi Zoning Ordinance; and

**WHEREAS**, Census Tract 43.06 in which the restaurant is located currently has no over concentration of licenses allowing on premise consumption of alcoholic beverages and the Planning Commission is not required to find public convenience or necessity in order to permit the issuance of an additional Alcohol Beverage Control license in this tract; and

**WHEREAS**, the State Department of Alcoholic Beverage Control (ABC) has training available that clearly communicates State law concerning the sale of alcoholic beverages; and

**WHEREAS**, all legal prerequisites to the adoption of this Resolution have occurred.

Based upon the evidence within the staff report and project file the Planning Commission finds:

1. The project is categorically exempt according to the California Environmental Quality Act, §15321, Class 21 (a) (2) (Enforcement Action by Regulatory Agency). The permit is being granted under adoption of an administrative decision or order enforcing the ABC license and enforcing Section 17.72.070 of the Zoning Ordinance and no significant impacts are anticipated and no mitigation measures have been required.
2. In order to comply with the State Department of Alcoholic Beverage Control, a Type-41 on-sale beer and wine license requires the sale of alcoholic beverages be secondary to food sales, which is the major activity of the project proponent's business.
3. The sale of alcoholic beverages as part of a restaurant is a public convenience that does not typically create alcohol related problems.
4. The sale and consumption of alcohol can sometimes result in behavior problems that can lead to law enforcement issues that require police intervention.
5. The proposed use is expected to be compatible with the surrounding use and neighborhood.
6. The granting of the Use Permit is consistent with the City's General Plan and Zoning Ordinance.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Use Permit Application No. 08-U-07 is hereby approved, subject to the following conditions:

1. The project proponent will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense of the action or proceedings.
2. The project proponent shall operate and abide by the requirements and conditions of the State of California Department of Alcoholic Beverage Control License Type-41.
3. The Type-41 License shall be limited to on-site sale and consumption of beer and wine during the hours that the restaurant is open for dining.
4. There shall be no off-sale of alcoholic beverages and the sale of food shall compose more than 50 percent of gross sales receipts.
5. Prior to the issuance of a Type-41 license, the project proponent shall complete Licensee Education on Alcohol and Drugs as provided by the State Department of Alcoholic Beverage Control.
6. The project proponent shall insure that the serving of alcohol does not cause any condition that will cause or result in repeated activities that are harmful to the health, peace, welfare or safety of persons residing or working in the surrounding area. This includes, but is not limited to: disturbances of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passerby, assaults, batteries, acts of vandalism, loitering, excessive littering, illegal parking, excessive loud noises (especially in the late night or early morning hours), traffic violations or traffic safety based upon last drink statistics, curfew violations, lewd conduct, or police detention and arrests.
7. The conditions of the Use Permit are subject to review by staff and the Planning Commission for compliance.
8. No variance from any City of Lodi adopted code, policy or specification is granted or implied by the approval of this resolution.

Dated: July 9, 2008

I hereby certify that Resolution No. 08-17 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 9, 2008 by the following vote:

AYES: Commissioners:

NOES: Commissioners:

ABSENT: Commissioners:

**ATTEST:** \_\_\_\_\_  
**Secretary, Planning Commission**



Item 3b.

**LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** July 9, 2007

**APPLICATION NO:** Variance 07-A-03 and Site Plan and Architectural Review 07-SP-02

**REQUEST:** Request for the Planning Commission to amend conditions of approval for the project site plan and architecture for the building located at 335 East Kettleman Lane (Applicant, Kenneth J. Gini, File # 07-SP-02).

**LOCATION:** 335 East Kettleman Lane. (APN: 047-270-14)

**APPLICANT:** Kenneth J. Gini  
335 E Kettleman Lane  
Lodi, CA 95240

**PROPERTY OWNERS:** Kenneth J. Gini

**RECOMMENDATION**

Staff recommends that the Planning Commission approve the request of Mr. Kenneth J. Gini to amend conditions of approval, subject to the conditions listed on the attached resolution.

**PROJECT/AREA DESCRIPTION**

**GENERAL PLAN:** General Commercial (GC).  
**ZONING DESIGNATION:** General Commercial (C-2).  
**PROPERTY SIZE:** Four parcels totaling 35,924 square feet.

**Adjacent zoning and land use are as follows:**

**North:** Residential Single Family Eastside (RE-1). There is a mixture of single-family and multi-family residential. Immediately north of the property is a 10' x 130' parcel used as an access way for both residential uses to the north and commercial uses to the south.

**South:** General Commercial (C-2). The area is mostly general commercial along both sides of Kettleman Lane with Single Family Residential (R-2) further south.

**East:** Lodi Academy, a private school (9-12) zoned Re-1; and General Commercial (C-2) further east.

**West:** General Commercial (C-2), mostly auto related businesses.

**Summary**

The project proponent, Mr. Kenneth J. Gini, is requesting to amend conditions of a site plan and architecture review for a building located at the corner of Central Avenue and Kettleman Lane. Mr. Gini proposed to construct two buildings designated Building A and Building B. Proposed Building A measures 10,300 square feet in area and will include an office area of 1,728 square feet and 8,572 square feet of auto shop area. Building B contains 3,760 square feet of building area. It features 660 square feet of office area and 3,100 square feet of shop area. The

proposed Building B was built on the eastern portion of the project site and fully conforms to the City of Lodi Zoning Ordinances. The proposed Building A, however, required a Variance to eliminate the required 5' side yard setback on the north side. The Planning Commission conditionally approved this request. However, the project proponent would like to amend the conditions of the Planning Commission in regards to the architecture.

## **BACKGROUND**

The project proponent applied for a General Plan Amendment to change the land use designation for 1325 and 1333 South Central Ave (APN: 047-270-11 and 047-270-12) from Eastside Residential (ER) to General Commercial (GC) and a Rezone of the same two properties from Single Family Residence, Eastside (RE-1) to Neighborhood Commercial (C-2). The request was first heard by the Planning Commission on December 13, 2006. At that hearing, the Planning Commission expressed concerns about site plan, architectural design of future buildings on the site and how buildings constructed on the property line would affect residential use to the north. They asked the applicant to submit a site plan with elevations. Further, the Planning Commission directed staff to analyze how a change in the zoning designation might affect 1323 South Central Avenue, a property owned by a different owner that was included in the original Rezoning request. The owner of this parcel had objected, via mail, the inclusion of his property in the rezoning request.

At the Planning Commission meeting of February 14, 2007 the applicant submitted site plans and architectural design of future buildings. The request to include the property at 1323 South Central Avenue was dropped from the rezoning and general plan amendment request. After deliberation, the Planning Commission voted to recommend that the City Council adopt the proposed Negative Declaration 06-03, approve General Plan Amendment and Zoning change for 1333 and 1325 South Central Avenue.

At its meeting of April 4, 2007, the City Council approved the Planning Commission's recommendation for approval of Negative Declaration 06-03, amending the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial and rezoning these same properties from RE-1, Single Family Residential Eastside to C-2, General Commercial. At its meeting of July 25, 2007, the Planning Commission reconsidered the applicant's request for a Variance and site plan and architectural review. After extensive deliberation, the Planning Commission conditionally approved the applicant's request.

## **ANALYSIS**

At its meeting of July 25, 2007, the Planning Commission reviewed the applicant's request for a Variance and Site Plan and architecture Review of the proposed buildings. Mr. Gini proposed to construct two buildings designated as A and B (see attachment 3). Proposed Building A measured 10,300 square feet in area and included an office area of 1,728 square feet and 8,572 square feet of auto shop area. It was proposed to be constructed on the northern portion of the project area. Building B measured 3,760 square feet of building area. The proposed Building A, however, required a Variance since it was proposed to be built without the required 5' side yard setback on the north side. Lodi Municipal Code §17.39.050 Yards states that when "a lot in a C-2 district sides upon a lot in any residence district, the side yard on that side shall be at least five feet. A side yard, if provided, shall be at least five feet in any case." Because of the standard auto-industry building sizes and the City of Lodi parking requirements, the applicant could not meet the required 5' side yard setback and asked for a Variance to reduce it to zero. The requested was granted by the Planning Commission on its meeting of July 27, 2008. The applicant has since constructed the building on the property line. The body of the back northern wall of Building A (which is built on the property line) features split face grey colored block. There are plain block strips, 8' apart, all along the length of the back wall. There

is an 18" accent trim on top of the wall. Of the 18" trim, the top 12" is in dark grey and the bottom 6" is in burgundy color.

The plans reviewed by the Planning Commission showed 2 roll-up and 2 man-doors on the northern wall. The two proposed roll up doors were 12' x 12' and the two proposed man-doors were 3' x 7'. The Planning Department and Community Improvement Division expressed concerns about the possible use of the alley as a primary access for delivery. The Planning Commission agreed with staff's concerns and required that the applicant replace the roll up doors with man-doors. A condition was added, and approved by the Planning Commission, aimed to mitigate the noise and the types of vehicles that may make deliveries to the site. Specifically, the Planning Commission resolution regarding this wall reads:

5. The elevation, materials and colors for the proposed buildings shall be consistent with the plans submitted to the Community Development Department. Such plans shall include screening of roof-top mechanical equipment on the north elevation and the two rollup doors on the north elevation shall be replaced with two pair of 4' wide, 7' tall man-doors.

The applicant has constructed the shell buildings on the site. The elevations, color and material, landscaping, and parking requirements have been met. However, the roll-up doors have not been eliminated all together. Although the sizes of the roll-up doors have been reduced to 8' X 8', the applicant feels he is unable to install man-doors in place of the roll-up doors. According to International Building Code, a man door, by definition, is entry/exit door and, therefore, must provide a 4' wide handicap accessible path of travel (paved walkway) to Central Avenue. The applicant states he cannot provide a path of travel since the path of travel would have to cross over a property owned by another party.

When the applicant submitted for a building permit, the plans submitted showed two sets of 4' wide, 7' tall man-doors. However, the Building Department requested that the man-doors be replaced by roll-up doors or that the applicant provide a handicap accessible path of travel to Central Avenue. The applicant opted to install roll-up doors in place of man-doors without the Planning staff approval. Planning staff were unaware of the dialogue between the applicant the and Building Division personnel. Planning staff became aware of the instillation of roll-up doors only recently when staff conducted routine final inspection. Planning staff informed the applicant that the instillation of the roll-up doors constituted a violation of the conditions of the Planning Commission approval.

Planning staff informed the applicant that City staff cannot amend the Planning Commission's conditions of approval and that the applicant needed to request that the Planning Commission amend their condition. City staff understands the challenges facing the applicant and would not oppose his request to amend the condition. The roll-up doors constructed are significantly smaller than originally requested and do not permit vehicular access, hand operated pallet jacks or deliveries of pallets. The applicant has indicated that deliveries through the roll-up doors will be limited to small hand carried boxes. Further, the applicant has proposed, and staff agrees, that he paint the roll-up doors to match with the masonry wall. Finally, staff is of the opinion that some kind of restriction should be imposed to keep the doors closed to reduce excessive noise.

In conclusion, staff feels that the proposed request to amend conditions of approval is a reasonable request and still meets the intent of the Planning Commission's concerns. The site has been built, one of the buildings is occupied and the second building also has tenants ready to move in. Staff feels that approval of this request will meet the intent of the Planning Commission's concerns.

**ENVIRONMENTAL ASSESSMENTS:**

The California Environmental Quality Act requires that projects be reviewed for their potential to create environmental impacts. The process requires that potential areas of impact be identified and a level of significance assessed. Staff prepared an Initial Study to review and assess impacts. Staff sent the proposed Negative Declaration to various agencies for review, published, and posted our intent to issue a Negative Declaration for the required 30-day period. This project was found to have no impacts that could be found significant if not mitigated via normal conditions of future development. In conclusion, staff finds that the proposed project meets these requirements and is therefore exempt from further review under CEQA. A Negative Declaration, ND-06-03 adequately addresses potential environmental impacts that could occur as result of this project. No significant impacts are anticipated and no mitigation measures have been required. On its meeting of February 14, 2007, the Planning Commission recommended the City Council approve the Negative Declaration. On its regular meeting of April 4, 2007, the City Council approved the negative Declaration.

**PUBLIC HEARING NOTICE:**

Legal Notice for the Use Permit was published on July 12, 2007. 35 Public Hearing notices were sent to all property owners of record within a 300-foot radius of the subject property as required by California State Law §65091 (a) 3. Based on the information provided to staff, it was determined that there are no Planning Commission members who reside or own property within a 500-foot radius of the project area.

**ALTERNATIVE PLANNING COMMISSION ACTIONS:**

- Approve the Request with Alternate Conditions
- Deny the Request
- Continue the Request

Respectfully Submitted,

Concur,

Immanuel Bereket  
Junior Planner

Peter Pirnejad  
Planning Manager

**ATTACHMENTS:**

1. Vicinity Map
2. Aerial
3. Elevation and Renderings
4. Compilation of minutes from all previous meetings
5. Previously Approved Planning Commission Resolution 07-10
6. Draft Resolution

Vicinity Map – 1325 & 1333 S. Central Avenue

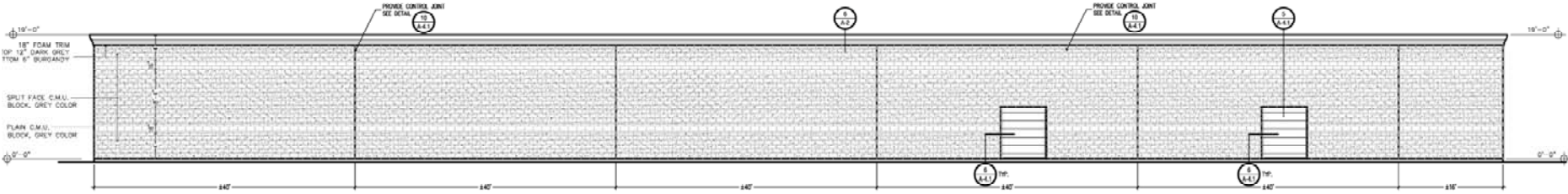




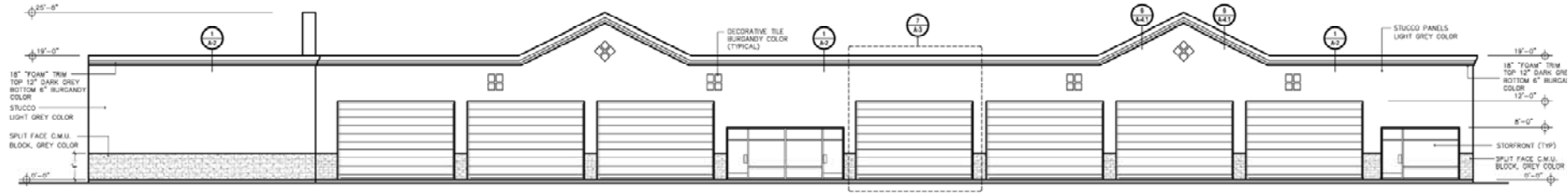
## Aerial Map



Constructed Elevations	
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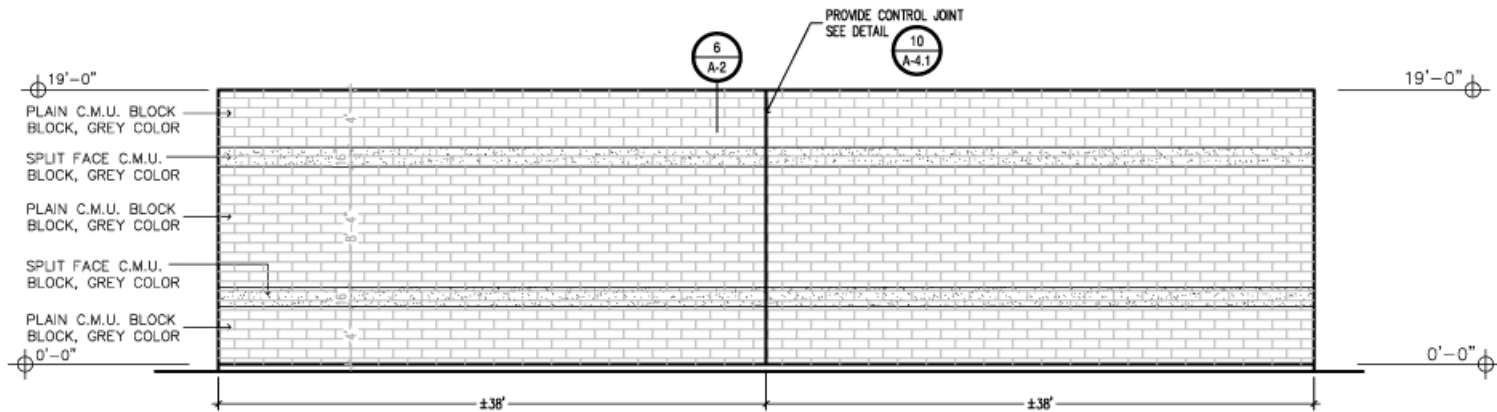
NORTH ELEVATION



SOUTH ELEVATION



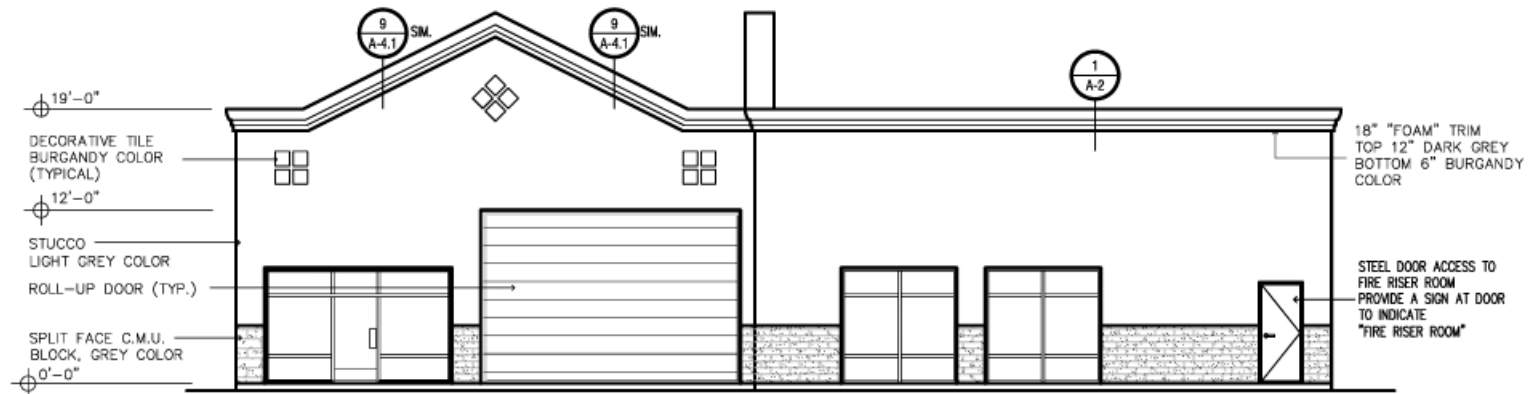
# Constructed Elevations



WEST ELEVATION

SCALE  
1/8" = 1'

4

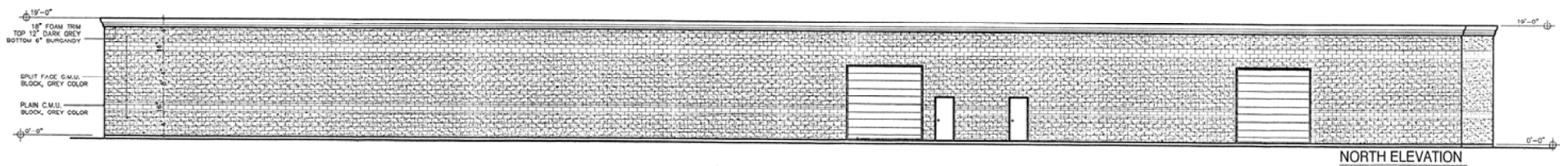
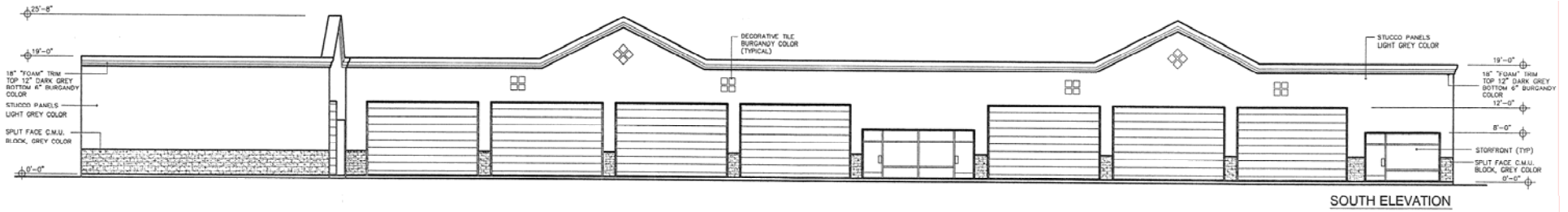


EAST ELEVATION

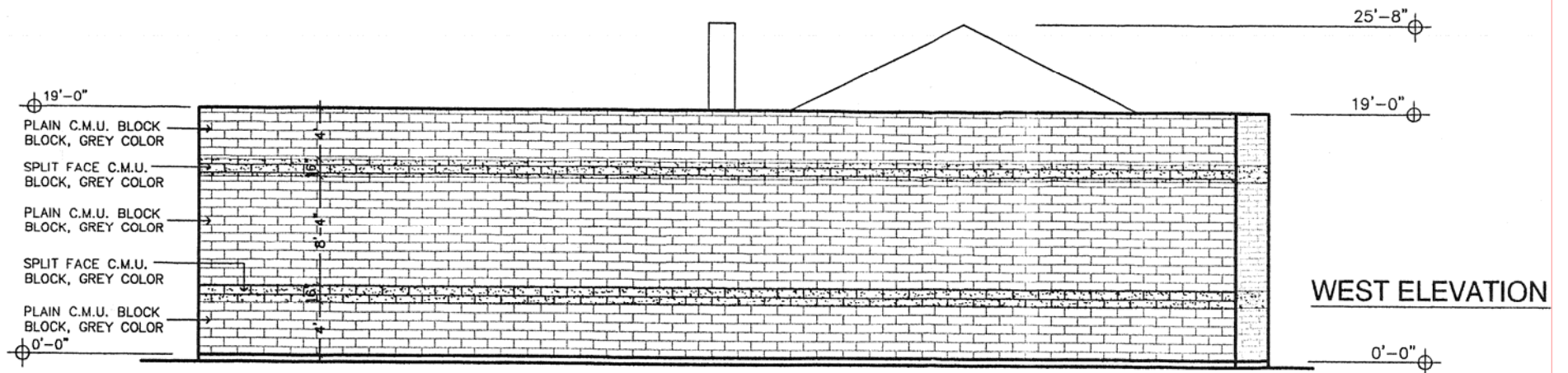
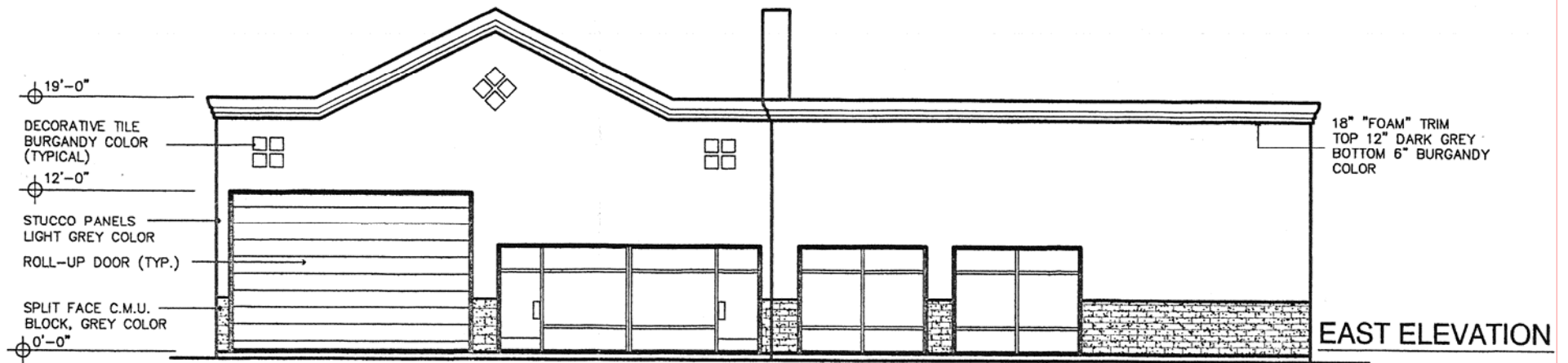
SCALE  
1/8" = 1'

2

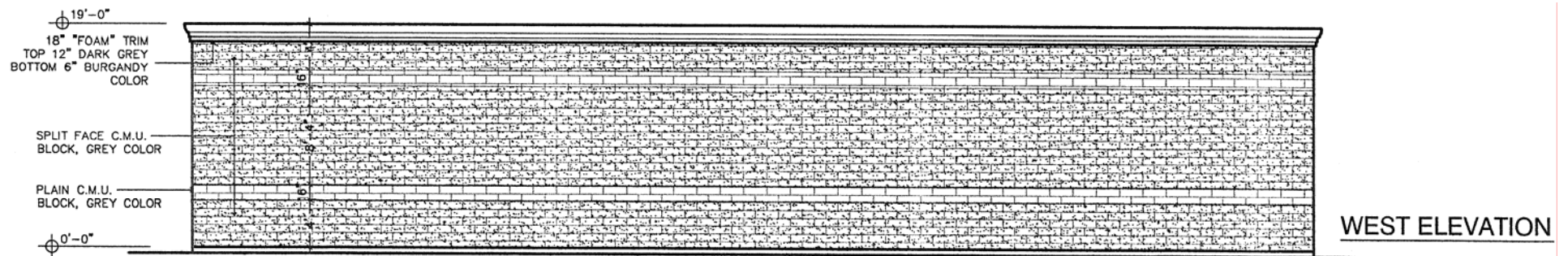
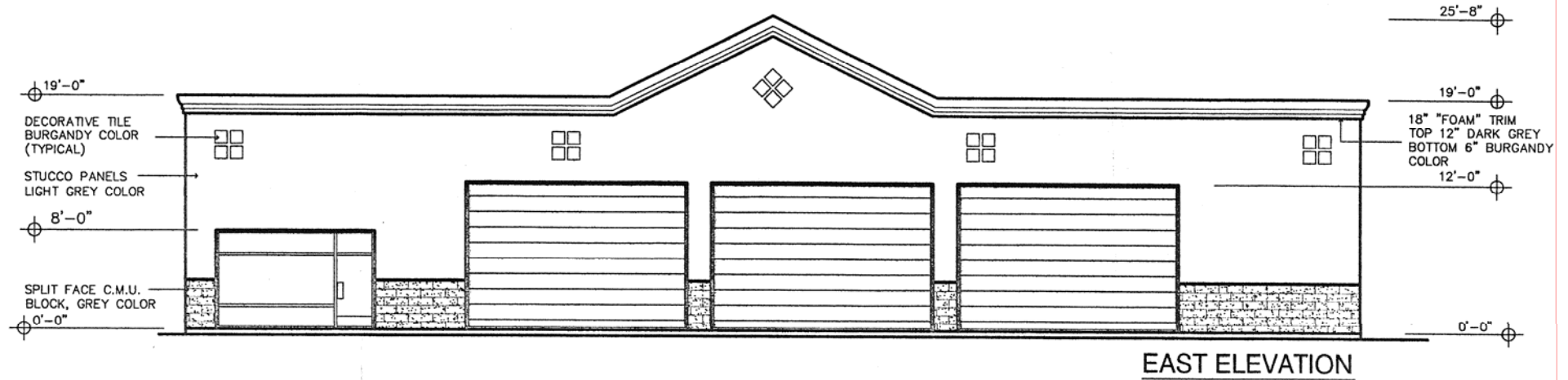
## Previously Reviewed Building Elevations



## Previously Reviewed Building Elevations

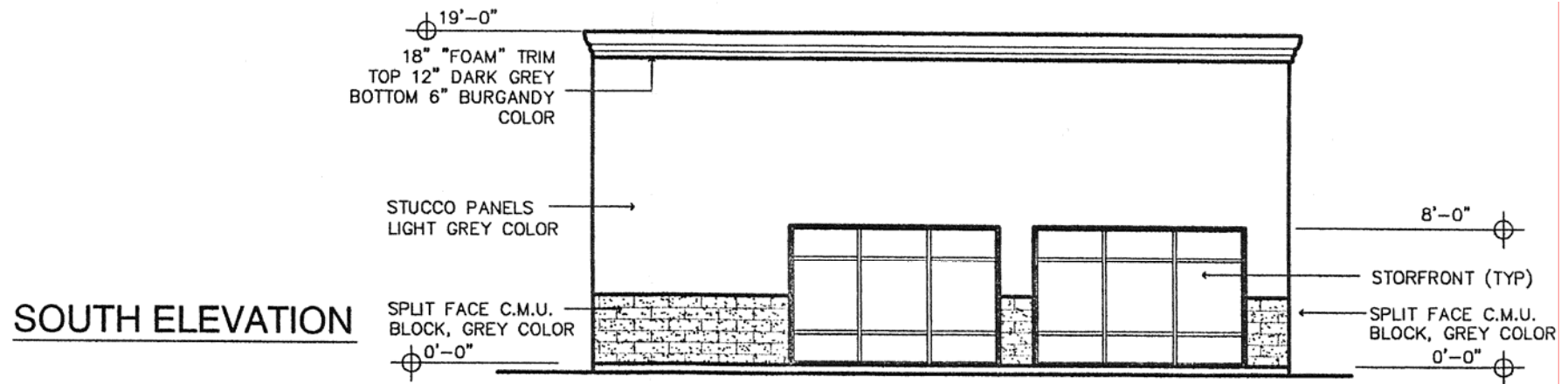
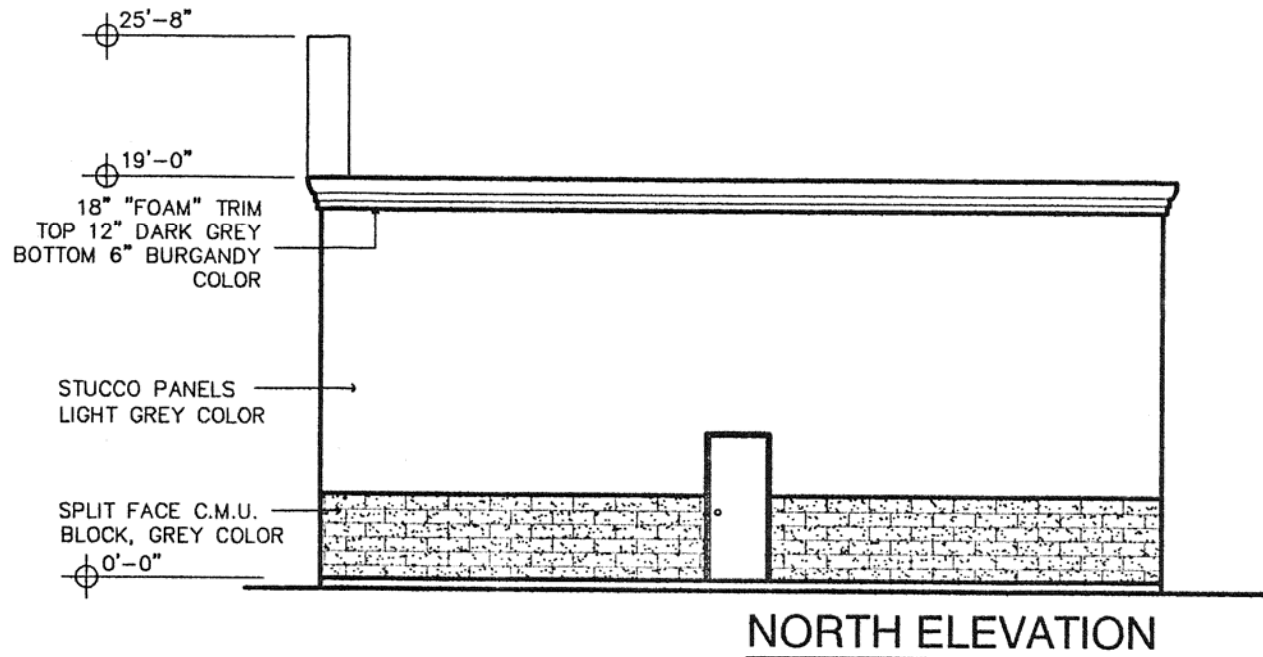


# Building B Elevations - 1325 & 1333 S. Central Avenue





## Building B Elevations - 1325 & 1333 S. Central Avenue



Past Planning  
Commission  
&  
City Council  
Minutes

*First Public Hearing for Ken Gini - Item 3b*

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, DECEMBER 13, 2006**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of December 13, 2006, was called to order by Vice Chair Moran at 7:01 p.m.

Present: Planning Commissioners – Cummins, Heinitz, Kiser, Mattheis, Moran, and White

Absent: Planning Commissioners – Chair Kuehne

Also Present: Community Development Director Randy Hatch, Planning Manager Peter Pirnejad, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

None

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Vice Chair Moran called for the public hearing to consider the request of Greg Young for Planning Commission approval of a Tentative Parcel Map to divide one parcel into two parcels at 605 W. Lockeford Street.

Randy Hatch reported that staff is recommending that the public hearing be continued to Jan. 10<sup>th</sup> so that the other departments can have a chance to review the plot plan.

Hearing Opened to the Public

- Anne Cerny came forward to mention that the home on this property could be used for other uses and contacting Habitat for Humanities could be an option.

Public Portion of Hearing Closed

- 

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Heinitz second, continued the request of Greg Young for Planning Commission approval of a Tentative Parcel Map to divide one parcel into two parcels at 605 W. Lockeford Street to a date certain of January 10, 2007. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kiser, Mattheis, White, and Vice Chair Moran

Noes: Commissioners – None

Absent: Commissioners – Chair Kuehne

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request of Kenneth J. Gini for recommendation from the Planning Commission that the City Council 1) Approve Negative Declaration 06-03 as adequate environmental documentation for both projects. (General Plan Amendment 06-GPA-01 and Rezoning 06-Z-01). 2) Approve a General Plan Amendment and 3) Rezoning for 1333, 1325, and 1323 South Central Avenue (APN: 047-270-12, 047-270-11, and 047-270-10) from Eastside Residential to General Commercial and Single Family Residential Eastside to General Commercial, respectively.

Peter Pirnejad, Planning Manager, reported that three separate actions will be necessary for this project; one to approve the Negative Declaration (NegDec), one for the General Plan Amendment (GPA) and one for the rezone. Mr. Pirnejad presented the project with the use of a PowerPoint

*Continued*

presentation. The applicant is requesting that a GPA be made from residential to commercial and be rezoned from RE-1 to C-2. There is a 10ft wide sliver of property on the north side of the project that the applicant asked the City to initiate the GPA on after attempts to contact the owner failed. Staff is recommending approval of the project and the NegDec. Mr. Pirnejad pointed out the response letters received regarding the NegDec and the one received by the owner of the "sliver" property.

Commissioner Heinitz asked if Mr. Gini were to buy this property what would stop him from closing it off to the properties in the back that are land locked. Mr. Pirnejad stated that the property functions as an access easement and no obstruction will be allowed.

Commissioner Mattheis asked what the impacts are to the owner of the "Sliver" parcel. Mr. Pirnejad stated that the GPA won't impact the "sliver" property at all. Commissioner Mattheis also wanted to know what the visual relief to the home that sit behind this project will be. Mr. Pirnejad stated that those details will be worked out at the SPARC level.

Commissioner Heinitz stated that the tax base will change on the "sliver" property causing a negative impact and he has a problem impacting the owner of this property for the benefit of another.

Commissioner Mattheis asked about the old Cedar tree that sits on one of the parcels. Mr. Pirnejad stated that the tree is going to be removed as the City does not have a Heritage Tree Ordinance.

Vice Chair Moran asked for clarification on the boundaries of the property owned by Mr. Gini. Mr. Pirnejad pointed out the boundaries with the use of the PowerPoint slides.

#### Hearing Opened to the Public

- Ken Gini, applicant, came forward to answer questions and would like to see this corner cleaned up. He has been trying to purchase all the property in this area, and hasn't had any success with the "Sliver" parcel.
- Commissioner Mattheis asked if Mr. Gini if he was planning to build right up to the property line. Mr. Gini showed his plan for the property using the PowerPoint slides. Commissioner Mattheis would like to see a 5ft landscape buffer along the north side. Mr. Gini stated that with the required parking and the size of the proposed building he doesn't have the room to allow for a 5ft buffer on the north edge.
- Ronald Goironi, McCoy Court, came forward to support the project. He wanted to know more about the owner of the "Sliver" property and stated he didn't see what the difference would be in the tax base for such a small piece of property.
- Anne Cerny, W. Vine Street, came forward speaking on behalf of Citizens for Open Government to express concerns for the GPA. She is also concerned with the removal of affordable housing and would like to know if they are single-family residences. Mr. Hatch stated that Staff believes they are but that the applicant could give more clarification.
- Mr. Gini came forward to state that the homes on the property are not in good repair and are both single-family residences.
- Anne Cerny came forward to state that General Plan Amendments are not a right but a privilege.

#### Public Portion of Hearing Closed

- Commissioner Kiser wanted to know if the "sliver" property owner, BVK, has had any other contact with staff. Mr. Pirnejad stated that yes he had been called and told of the meeting.
- Commissioner Heinitz stated that he has a problem with acting on this without more information regarding to the future project. He believes that the property should be zoned commercial but can't support the project not knowing what the impacts will be to the surrounding area.

*Continued*

- Randy Hatch stated that the property immediately to the north of the “sliver” property is not owned by BVK. The future project is not something that is required at this time so the applicant was not asked to supply one. Staff is also concerned with affordable housing and is working toward getting projects started to move in that direction. Mr. Pirnejad stated that the property north of the “sliver” property that uses the easement access is not owned by BVK.
- Commissioner Mattheis would like to see some landscaping along the northern side of whatever project goes in there so that the residences have something other than a wall to look at. It will be a graffiti problem if there isn’t some landscape relief there.
- Mr. Pirnejad stated that the project could be taken to SPARC and then brought back to the Planning Commission with their recommendations. Mr. Hatch added that the project will not go forward without going through the SPARC process because it is a commercial project.
- Commissioner Mattheis is not in support of the GPA to the “sliver” property. Mr. Hatch stated that the “sliver” property can be left out of the recommendation to Council.
- Commissioner Heinitz is not in support of the SPARC process at this point. He would like to know why BVK owns this property. He would like to see what is proposed for this property and what kind of landscaping is proposed for the north facing wall.
- Commissioner Kiser feels the same way as Commissioner Heinitz and won’t support this project with an approval to Council.
- Commissioner White won’t support the GPA on the “sliver” property.
- Vice Chair Moran has a problem with the removal of two residential units when one of the units is a duplex according to the staff report which would make it three residential units.
- Mr. Hatch stated that the Commission could continue the hearing to allow the applicant to bring back the information that is being requested and to bring back the information that would normally go to SPARC so that the Commission can make those recommendations instead.
- Janice Magdich stated that the hearing will have to be republished if the Commission is going to require more information to be brought back.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Heinitz, Kiser second, continued the request of Kenneth J. Gini for recommendation from the Planning Commission that the City Council 1) Approve Negative Declaration 06-03 as adequate environmental documentation for both projects. (General Plan Amendment 06-GPA-01 and Rezoning 06-Z-01). 2) Approve a General Plan Amendment and 3) Rezoning for 1333, 1325, and 1323 South Central Avenue (APN: 047-270-12, 047-270-11, and 047-270-10) from Eastside Residential to General Commercial and Single Family Residential Eastside to General Commercial, respectively along with the additional information requested including SPARC data to a date to be determined. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Heinitz, Kiser, Mattheis, White, and Vice Chair Moran  
Noes: Commissioners – None  
Absent: Commissioners – Chair Kuehne

4. PLANNING MATTERS

Mr. Hatch pointed out the articles placed in the packet for information only.

Mr. Hatch reported that the use of CDBG grant funds from the County for the Grape Bowl have hit a snag.

5. ANNOUNCEMENTS AND CORRESPONDENCE

Mr. Hatch stated that he has made contact with the City of Stockton to see what is proposed for the area north of Eight Mile Road.

Vice Chair Moran asked about the future meetings regarding the General Plan Update. Mr. Hatch stated that the Stakeholder Meetings will take place some time in March 2007.

*Continued*

6. ACTIONS OF THE CITY COUNCIL

Ms. Magdich reported that the Southwest Gateway had it's second reading of the Ordinances. The re-organization of the City Council took place. The Greenbelt Task Force was placed on a 6 month hiatus so that the property owners would have time to present their ideas to the County. Mr. Pirnejad stated that LAFCO made their final determination on the Reynolds Ranch Project.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Commissioner Heinitz stated that there will be a meeting on Monday.

8. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE

None

9. ART IN PUBLIC PLACES

None

10. COMMENTS BY THE PUBLIC

Kathy Haring, Woodbridge, came forward to ask what incentives are offered for infill items. Mr. Pirnejad stated that he has been in contact with Ms. Haring regarding her project that is going through the Growth Management (GM) Allocations. Progress is being made and staff hopes to be bring this project along with a couple of the other GM applications to the Planning Commission soon. Staff's hands are tied by the GM allocation process. Ms. Haring stated that she does not see any incentives for infill projects. She fills that there needs to be some incentives for those people that are trying to work within the City's boundaries. Mr. Hatch added that the GM process affects only projects with 5 units or more.

Commissioner Heinitz suggested that Ms. Haring keep a look out for future meetings that will have discussions on some changes to the Zoning Ordinance.

Ms. Haring just doesn't feel that some of these fees are fare to impose on infill projects when they are being encouraged by the City. She would like to see specific incentives for infill projects.

Ken Gini came forward to state that he does have a site plan available.

11. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Mattheis requested that the maps be cleaned up so that they are easier to read. He would also like to see a Heritage Tree Ordinance brought forward so that we can preserve trees that are of a specific size or larger. Ms. Magdich asked if the Commission would like staff to look at an ordinance that would be more of a general tree ordinance, not just looking at age and size. The Commission affirmed that they would like that.

Commissioner Cummins asked if Council has the ability to dissolve SPARC. Mr. Hatch stated yes they do and Council has directed staff to look at some different options regarding the role of SPARC.

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:39 p.m.

ATTEST:

Randy Hatch  
Community Development Director



## *Second Public Hearing for Ken Gini - Item 3c*

### **LODI PLANNING COMMISSION REGULAR COMMISSION MEETING CARNEGIE FORUM, 305 WEST PINE STREET WEDNESDAY, FEBRUARY 14, 2007**

#### **1. CALL TO ORDER / ROLL CALL**

The Regular Planning Commission meeting of February 14, 2007, was called to order by Chair Kuehne at 7:00 p.m.

Present: Planning Commissioners – Cummins, Kiser, Mattheis, Moran, and Chair Kuehne

Absent: Planning Commissioners – Heinitz and White

Also Present: Community Development Director Randy Hatch, Planning Manager Peter Pirnejad, City Attorney Stephen Schwabauer, and Administrative Secretary Kari Chadwick

#### **2. MINUTES**

“June 14, 2006”

##### MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Cummins second, approved the minutes of June 14, 2006 as written. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Moran, and Chair Kuehne

Noes: Commissioners – None

Abstain: Commissioners - Mattheis

Absent: Commissioners – Heinitz and White

#### **3. PUBLIC HEARINGS**

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request of the Planning Commission for approval of a Use Permit to allow the operation of a proposed card room at 1800 S. Cherokee Lane.

Peter Pirnejad, Planning Manager, reported that the applicant currently has an operating card room in Lodi and would like to move to this new location allowing for a restaurant as well. This application is for the card room portion only, because the previous tenant had a Use Permit for the Alcohol Beverage Control License and that runs with the land. Mr. Pirnejad gave a brief PowerPoint presentation. Before entering the card room patrons will be asked to show ID by security set up at the entrance. Staff has been in contact with the City of Stockton, who has had an application like this already before them, and has incorporated some of their conditions into our conditional Use Permit. The business will employ approximately 25 employees for the restaurant and card room. The card room employees will need to obtain and possess a valid work permit issued by the Chief of Police. The applicant will also be required to provide additional security lighting around the premises and install 24 hour surveillance cameras both inside the facility and out. Staff feels that the landscaping is not adequate and will be requiring additional landscaping plans to be submitted to the Planning Department and approved by the Community Development Director prior to Certificate of Occupancy or opening. The public hearing notices were hand delivered to the condo complex kiddy-corner from the project area because the individual addresses were not available to us via our regular computer link.

In response to Commissioner Cummins's question regarding the card room being in business today and how many tables they may have, Mr. Pirnejad stated that he would have to refer those questions to the applicant.

In response to Commissioner Cummins's question regarding the exterior lighting plan, Mr. Pirnejad stated that there was not a lighting plan submitted.

*Continued*

In response to Commissioner Cummins's questions regarding the consumption of Alcohol while playing, Mr. Pirnejad stated that they will be allowed to be served Alcohol, but the condition reads that they, patrons, can not be intoxicated while playing.

In response to Commissioner Kiser's question regarding the type of ABC License currently available at the project site, Mr. Pirnejad stated that the Use Permit that is currently with the property is a General ABC License. Distilled spirits can be served throughout the entire facility.

In response to Commissioner Mattheis's question regarding the anticipated traffic in regards to the neighborhood circulation area and the calculated parking needed, Mr. Pirnejad stated that a traffic analysis was not done do to the fact that there was an existing restaurant use there. Parking was calculated using the restaurant (1 to 4) one space for every table of four. Using that ratio the project needed thirty four spaces and they currently have eighty four.

Commissioner Mattheis expressed his concerned over where the overflow parking would be. He feels that the card players and employees will probably arrive in individual vehicles taking up 105 spaces, then there will be the restaurant patrons on top of that. Mr. Pirnejad stated that there wasn't an overflow plan submitted, so that would be a good question for the applicant.

In response to Chair Kuehne's question regarding parking on the street, Mr. Pirnejad stated that he wasn't sure, but seeing nods in the crowd deferred to them.

In response to Commissioner Mattheis's question regarding signage, Mr. Pirnejad stated that it was not a part of this application. A sign is reviewed by Planning during the building permit process.

In response to Vice Chair Moran's questions regarding the timing of the opening of the restaurant compared to the card room, Mr. Pirnejad stated that life safety issues may have an effect (example: having part of the building open for business while still renovating). Mr. Schwabauer added that the opening of the card room for all practical purposes would have to coincide with the restaurant if they wanted to serve alcohol.

In response to Commissioner Cummins's question regard signage plans, Mr. Hatch stated that there isn't a sign plan in planning yet, but there have been some preliminary discussions. The thought is to use the existing signage structures.

In response to Commissioner Cummins's question regarding the card room Ordinance, Steve Schwabauer stated that the City Council adopted a new Ordinance about six months ago. The Ordinance was written specifically to allow this card room to play Texas Hold'em and to expand the number of tables. A conditional Use Permit was also placed as a condition for this type of establishment, so that if problems should arise the permit can be revoked by the Planning Commission. There isn't anything in the Ordinance regarding how close it can be to a residential neighborhood.

In response to Chair Kuehne's question regarding the work permit issued by the Chief of Police, Mr. Pirnejad stated that the condition is to make sure that a thorough background check gets done on all the employees.

Commissioner Mattheis disclosed that he spoke with the proponent at their request to discuss the project.

#### Hearing Opened to the Public

- Tom Newton, 529 Plumb Court - applicant, came forward to speak in favor of the project. Mr. Newton introduced the partners involved in the project that were present. Mr. Newton wanted to reassure the neighborhood that this establishment will be a good neighbor. This will not be a gang hangout; it will cater to a higher class of clientele. Mr. Newton feels that the 84 parking spaces will be more than adequate, but he is hoping not.

*Continued*

- In response to Commissioner Mattheis's question regarding the overflow parking, Mr. Newton stated that there is a vacant lot south of this property that could be used for overflow parking if need be. Mr. Newton added that the property to the south is not paved.
- In response to Commissioner Cummins's question regarding the current card room license, Mr. Newton stated that there are several card games that can be played in the card room, but the most popular being Texas Hold'em.
- In response to Commissioner Cummins's question regarding the security, Mr. Newton stated that there will be security both inside and out.
- In response to Commissioner Moran's question regarding the timing of the opening of the card room and restaurant, Mr. Newton stated that the restaurant and card room will be opening at the same time.
- In response to Commissioner Kiser's question regarding the security guards being armed, Mr. Newton stated that he didn't know the answer to that question.
- Chris Raye, 1142 Rivergate Dr., came forward to answer questions. Mr. Ray stated that the kitchen and card room will open up at the same time. The restaurant will open later. There will be unarmed security inside and out and there will also be security camera inside and out. Mr. Ray stated that in the future if the establishment does go with armed security, he sees at least one armed guard on hand at night. He also stated that the lighting outside will be upgraded.
- In response to Commissioner Mattheis's question regarding the landscaping, Mr. Ray stated that the landscaping is currently being updated and improved and will be approved by City Staff before opening. He also added that the trim paint turned out to be the wrong color and will be changed.
- James Demera, 242 Valley Oak Place, came forward to answer questions regarding the parking issue at Commissioner Mattheis's request. He stated that there is additional parking along Cherokee Lane on both sides. The only restriction is that the vehicle can not be over six feet high.
- Ken Owen, Christian Community Concerns Direct, came forward in oppose the project. Mr. Owen doesn't feel this is in the best interest of the neighborhood or the City. The location is a major gateway entering the City and will be the first impression people will get of our City. He stated his concerns with the location of the establishment being so close to the residential condominiums across the street. He feels that the quiet atmosphere of the neighborhood will be lost with the 24/7 operating hours. Another concern that Mr. Owen has is the adverse affect this establishment will have on the property values in the neighborhood. The signage could also be a concern should the City allow for a lit sign flashing all night long. Mr. Owen is requesting that the Use Permit be denied.
- Ryan Lewis, Applicant 552 W. Ben Holt Dr., came forward to answer question. Mr. Lewis has worked at the Cameo Casino in Stockton for 5 years and the call out for police was/is minimal. He also stated that the employees will have to go through a very thorough background check with the State Department of Gaming. Mr. Lewis wanted to point out that this property has been depressed for some time and several restaurants have come and gone in this location. Now the property will be maintained in a positive manner.
- In response to Commissioner Cummins's question regarding the number of card tables currently being used vs what is being proposed, Mr. Lewis stated that the number of tables will increase but the number of card rooms will not. Commissioner Cummins stated that he met with Sargent Tattum, regulator of card rooms in Stockton, and he stated that the biggest concern was the illegal activities of the patrons such as loan sharking and drugs. Mr. Lewis stated that in the past five years the Cameo has had to deny entry to about twelve patrons do to illegal activities. Loan sharking, drugs or any other illegal activities are not tolerated and when someone is found and proven to be doing the illegal activity they are dismissed and not allowed on the premises in the future. One patron is not worth losing our license.

*Continued*

- Jack Morgan, 1800 Capell St., came forward to support the project. Mr. Morgan has owned Action Jackson for five years and hasn't had any trouble with the police during that time.
- Ann Cerney, 900 W. Vine St., came forward to speak on the project. Ms. Cerney is concerned about the addictiveness of the alcohol and gambling and the effect it can have on the lower income families. She would like to see some precautions taken by the applicant to try to prevent these addictions.
- Khurram Shahzad, 1634 Cherrywood Way, came forward to oppose the project. Mr. Shahzad feels that the lower income residences along Almond Dr. will find this location to convenient.
- Joseph Goss, 722 Evergreen Dr., came forward to support the project. Mr. Goss is here to state his love of the game. He has worked in and around card rooms and the gaming industry for many years. He feels this will be a positive establishment for the community. There are a lot of opportunities for this type of establishment to give back to the community in a positive manner (ie through local charities).

Public Portion of Hearing Closed

- In response to Commissioner Mattheis's question regarding a condition allowing for a 1 year review, Mr. Hatch stated that there isn't a review period currently in the resolution, but one can be added.
- In response to Commissioner Kiser's question regarding the noticing of the meeting, Mr. Hatch stated that staff went beyond the required steps for the noticing of the Public Hearing by going to the condominiums on the corner and posting that area directly.
- Commissioner Cummins stated his objections to the project and would like to see more information brought forward (a lighting plan, landscaping plan, and traffic study) for consideration and can not support the project at this time.
- Commissioner Mattheis stated that he would like to see a yearly review until the Planning Commission feels no more reviews are needed. He feels that Cherokee Lane would be an adequate buffer from the residential area.
- Commissioner Moran stated she would also like to see a yearly review as well. She would also like to see a condition added that states a specific time period between the opening of the card room and restaurant (3 months). Ms. Moran would like to see a time frame add to condition 15 regarding the landscaping completion and the lighting should not shine onto other property. The chief of police should have discretionary review of the staff which could be a part of the Gaming Ordinance approved by Council.
- Commissioner Cummins restated his objection to approving a project without all the details.
- Commissioner Kiser agrees with Commissioner Cummins and would like to see more information brought to the Commission before this goes forward.
- Commissioner Mattheis stated that he doesn't have an objection to letting Staff look at and approve the landscaping and signage design.
- Randy Hatch stated the additional conditions: addition to condition 15 "...and installed within 3 months of opening"; new condition 17 "this use shall be subject to a yearly noticed review before the Planning Commission until such reviews are deemed by the Planning Commission to no longer be needed"; new condition 18 "outdoor lighting shall be shielded to avoid shining on residential areas"; new 19 "the dinning room shall be operational within 3 months after the card room is open to the public"; new 20 "graffiti shall be removed within 24 hours"; new condition 21 ""No Loitering" signs shall be posted on the exterior of the business in accordance with the Lodi Municipal Code."
- The questions was raised as to if the conditions were not met within the time allowed what are the steps taken. Mr. Hatch stated staff would do a code enforcement action and revoke their license to operate. Commissioner Cummins asked if that would be an immediate

*Continued*

action. Commissioner Mattheis stated that an addition could be placed on condition 15 to state that if the landscaping was not in place within the 3 months a revocation hearing would be brought before the Commission.

- Mr. Hatch amended condition 15 to state “.....3 months of opening. If not installed by the 3 month date, a revocation hearing shall be scheduled before the Planning Commission.”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Moran, Mattheis second, approved the request of the Planning Commission for a Use Permit to allow the operation of a card room at 1800 S. Cherokee Lane subject to the attached resolution with the added conditions as stated above. The motion carried by the following vote:

Ayes: Commissioners – Mattheis, Moran, and Chair Kuehne

Noes: Commissioners – Cummins and Kiser

Absent: Commissioners – Heinitz and White

Chair Kuehne called for a two minute break.

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request for a Tentative Parcel Map to divide one parcel into two at 548 North Loma Dr.

Randy Hatch reported that the applicant has come forward to request the item to be continued. He recommends opening the item up to the public before voting.

Hearing Opened to the Public

- Lupe Almer, Howard St., came forward to object to the project. She is concerned with the tightness of the cul-de-sac and the addition of a house across from her property. Ms. Almer thinks that the parking will become a major issue for the surrounding residences. She also believes that if the property owner is developing the property then he should be responsible for paying the fees for the curb and gutters in the Improvement Deferral Agreement.
- Robert Almer, Howard St., came forward to object to the project. Mr. Almer stated that there is already a parking problem along Howard Street. He would like to know what will happen to the easement off of Loma when all these homes go in.
- Gary Nightingale, Mundy Rd., came forward to express his concerns about the property his father owns just north of the proposed project. He would like to know if there will be an egress to the two parcels cut off from the cul-de-sac.
- Ann Cerney, Vine Street, came forward to express some concerns regarding the number of votes needed when not all of the Commissioners are present. Mr. Schwabauer stated that a majority of the quorum present is all that is needed.

Public Portion of Hearing Closed

- Mr. Hatch stated that the cul-de-sac will be a City right of way not a private road. The proposed plans are available at the Community Development Department for anyone to view.

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Moran, Mattheis second, continued item 3b to a date certain of March 28, 2007. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, and Chair Kuehne

*Continued*

Noes: Commissioners – None  
Absent: Commissioners – Heinitz and White

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider Recommend to the City Council the following actions: 1) Approve Negative Declaration 06-03 as adequate environmental documentation for the proposal; 2) Amend the General Plan designation for 1333, 1325, and 1323 South Central Avenue (APN: 047-270-12, 047-270-11, and 047-270-10) from Eastside Residential to General Commercial; and 3) Rezone these same three properties from RE-1, Single Family Residential Eastside to C-2, General Commercial.

Randy Hatch reported that this item came before the Planning Commission on December 13, 2006. One of the concerns that the Commission brought up at that time was in regards to the “sliver” property adjacent to Mr. Gini’s property being changed without the consent of that property owner. Staff is recommending that the Planning Commission not recommend a zone change on the 1323 S. Central property. Staff is recommending a zone change for the 1325 and 1333 S. Central property. Mr. Hatch with the assistance of a PowerPoint presentation continued with his report. Mr. Hatch pointed out that the various elevations. The applicant will need to get a variance to continue with the project as presented. The Commission has the option to continue everything to come back to the Commission or to move this portion on to council and then have the applicant come back with the variance request.

In response to Commissioner Moran, Mr. Hatch stated that the requirements that the Air Pollution Control Board asked about are already set construction requirements that the City follows. It is up to the Air Pollution Control Board to enforce their requirements over and above the requirements that the City already follows. These requirements will need to be signed off by the Air Pollution Control Board as a separate item just like a building permit before a Certificate of Occupancy can be issued.

In response to Chair Kuehne, Mr. Hatch stated that the roll-up doors on the north elevation are there to provide direct access to the alley way from the building.

In response to Chair Kuehne, Mr. Schwabauer stated that he is uncomfortable in making a recommendation for rezoning (down zoning) a piece of property against the owners wishes.

Commissioner Mattheis stated his concerns with the big blank wall facing residential units. He has a problem with imposing this on the residents that live there. He is questioning the location of the project if there can’t be a two foot area for landscaping.

Mr. Hatch stated that because of the alley being privately owned there is a set back requirement. If the alley had been publicly owned there would not have been a set back requirement at all.

Commissioner Cummins stated that by looking at the current fence he feels the block wall would be much better.

Commissioner Moran stated that the wall will be 2 to 3 times the height of the current fence. You can currently see the landscaping on the other side of the wood fence which breaks up the view.

Chair Kuehne stated that according to the paper the residences would prefer the blank wall.

Mr. Hatch stated that the surrounding properties did not get notice of a potential variance showing the building right on the property line because this particular application does not ask for that much detail. When the variance is brought before the Planning Commission there will be another notice that will go out to the 300 ft radius stating the intent to build directly on the property line which could generate more public comments in the area.

Hearing Opened to the Public

*Continued*

- Ken Gini, Applicant, came forward to answer questions. Mr. Gini stated that this project is not only good for himself but for the community. The current condition of the properties within this project area are in poor condition and will need to be demolished. He also added that any graffiti should there be any will get removed within a timely manner.
- In response to Commissioner Mattheis, Mr. Gini stated that he had thought about landscaping on the backside (north side) of the property, but felt that the care could fall short and over time could be an eye-sore instead of a visual benefit.
- In response to Chair Kuehne, Mr. Gini stated that insets would not only add to the cost but would cause problems on the inside by taking away from the storage area.
- In response to Commissioner Mattheis, Mr. Gini stated that his current lease is up in a year and to continue this again would put him further behind and out in the cold. Putting the 2 foot landscaping on the north side would cause him to have to rethink the layout of the project and feels that the area will be a weed patch within a year.
- Ken Gini stated that he understands that the wall issue hasn't been completely hashed out but is confident that we can work it out. Commissioner Mattheis wanted Mr. Gini to clarify that if the Commission requires him to articulate the back wall or put in landscaping he would be in favor of this. Mr. Gini said they would work it out.
- Ann Cerney, Vine St., came forward to express her concerns for the project going forward without it being complete. She would like to see the affordable housing that is being taken away by this project replaced. She objects to going forward with this project.

Public Portion of Hearing Closed

- Commissioner Mattheis stated that he doesn't have a concern with the rezone at this time. He would like to see more attention given to the north side of the project.

MOTION / VOTE:

The Planning Commission, on motion of Chair Kuehne, Cummins second, approved the request for recommendation to the City Council to approve the Negative Declaration as adequate environmental documentation as per the resolution P.C. 06-55 provided on blue sheet. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Heinitz and White

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, approved the request to amend the General Plan designation for 1333 and 1325 South Central Avenue (APN: 047-270-12 and 047-270-11) from Eastside Residential to General Commercial as per the conditions in Resolution P.C. 06-56 provided on blue sheet. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Heinitz and White

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, approved the request to rezone 1333 and 1325 South Central Avenue (APN: 047-270-12 and 047-270-11) from RE-1, Single Family Residential Eastside to C-2, General Commercial as per the conditions in Resolution P.C. 06-57 provided on blue sheet. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Heinitz and White

*Continued*

4. PLANNING MATTERS

Planning Articles

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Mr. Hatch reported what had occurred at the most recent Council meetings.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. ART IN PUBLIC PLACES

Chair Kuehne stated that the committee will be adding more wall dog projects next year and are looking at other types of projects for around the City.

9. COMMENTS BY THE PUBLIC

None

10. COMMENTS BY STAFF AND COMMISSIONERS

Commissioner Mattheis would like to know the status of the Heritage Tree Ordinance and the options for the Planning Commission to continue items on the agenda once the meeting hits 11:00pm.

11. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:32 p.m.

ATTEST:

Randy Hatch  
Community Development Director



## ***Council Public Hearing for Ken Gini - Item I-3***

### **LODI CITY COUNCIL REGULAR CITY COUNCIL MEETING CARNEGIE FORUM, 305 WEST PINE STREET WEDNESDAY, APRIL 4, 2007**

#### **C-1 CALL TO ORDER / ROLL CALL**

The City Council Closed Session meeting of April 4, 2007, was called to order by Mayor Johnson at 5:30 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian [excluding C-2 (d), (e), and (f)], Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

#### **C-2 ANNOUNCEMENT OF CLOSED SESSION**

- a) Review of Council Appointees – City Manager and City Attorney – pursuant to Government Code §54957
- b) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Norma Carson against City of Lodi Based on Personal Injury
- c) Actual Litigation: Government Code §54956.9(a); Two Consolidated Cases; Ana Perez v. Allen Aadland, City of Lodi, et al. and Allstate Insurance Company v. City of Lodi, Allen B. Aadland, Lodi Electric Utility, et al., San Joaquin County Superior Court Case No. CV 028324
- d) Actual Litigation: Government Code §54956.9(a); One Case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- e) Actual Litigation: Government Code §54956.9(a); One Case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- f) Actual Litigation: Government Code §54956.9(a); One Case; City of Lodi v. Michael C. Donovan, an individual; Envision Law Group, LLP, et al., San Francisco Superior Court, Case No. CGC-05-441976

#### **C-3 ADJOURN TO CLOSED SESSION**

At 5:30 p.m., Mayor Johnson adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:55 p.m.

#### **C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION**

At 7:03 p.m., Mayor Johnson reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Items C-2 (a) and C-2 (b) were not discussed.

In regard to Item C-2 (c), settlement direction was given.

Items C-2 (d), C-2 (e), and C-2 (f) were discussion and direction only.

#### **A. CALL TO ORDER / ROLL CALL**

The Regular City Council meeting of April 4, 2007, was called to order by Mayor Johnson at 7:03 p.m.

Present: Council Members – Hansen, Hitchcock, Katzakian, Mounce, and Mayor Johnson

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

*Continued April 4, 2007*

B. INVOCATION

The invocation was given by Pastor Bill Cummins, Bear Creek Community Church.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Johnson.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 (a) Juan Villarreal, President of the Library Board of Trustees, presented the Library Volunteer of the Year Award to Patricia Stump.

D-2 (a) Following introductory comments by Joseph Wood, Community Improvement Manager, Mayor Johnson presented a proclamation to Jennelle Bechthold and Tom Sanchez, representing Central California Waste Services, proclaiming the month of April 2007 as "Keep Lodi Beautiful Month" in the City of Lodi.

D-3 (a) Corinne Casey and Sarah McConahey, representing the Greater Lodi Area Youth Commission, provided the Council with a quarterly update on the Commission's activities and accomplishments.

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E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

- E-1 Claims were approved in the amount of \$3,524,504.92.
- E-2 The minutes of March 20, 2007 (Shirtsleeve Session), March 21, 2007 (Regular Meeting), and March 27, 2007 (Shirtsleeve Session) were approved as written.
- E-3 Approved the specifications and authorized advertisement for bids for landscape maintenance for the Lodi Consolidated Landscape Assessment District 2003-1, fiscal year 2007-08.
- E-4 Approved the specifications and authorized advertisement for bids for 3,000 tons of asphalt materials for fiscal year 2007-08.
- E-5 Approved the specifications and authorized advertisement for request for proposals for various photocopiers in several City departments.
- E-6 "Adopt Resolution Awarding the Contract to HDR, Inc., of Folsom, for Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation for Water Supply and Transmission System (\$400,000) and Authorizing the City Manager to Execute the Contract" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
- E-7 Adopted Resolution No. 2007-55 authorizing the City Manager to enter reimbursement agreements with developers seeking staff and contract resources to process development applications and developments.
- E-8 "Approve New Development Code Update Plan and Adopt Resolution Authorizing the City Manager to Enter into a Contract with Jacobson & Wack in the Amount of up to \$55,000 for Contract Services Related to the Completion of the Development Code Update" was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**

*Continued April 4, 2007*

- E-9 "Adopt Resolution Ratifying Memorandums of Understanding with the Lodi City Employees General Services and Maintenance and Operators Units (July 1, 2006 through June 30, 2008)" was ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.***
- E-10 Received report regarding final costs for the November 7, 2006, General Municipal Election.
- E-11 Set public hearing for April 18, 2007, to consider an appeal to the Planning Commission's approval of a Conditional Use Permit for Wine Country Casino and Restaurant located at 1800 South Cherokee Lane (Wine Country Casino and Restaurant, applicant; Kenneth R. Owen, appellant).

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**ACTION ON ITEMS REMOVED FROM CONSENT CALENDAR**

- E-6 "Adopt Resolution Awarding the Contract to HDR, Inc., of Folsom, for Surface Water Treatment Facility Conceptual Design and Feasibility Evaluation for Water Supply and Transmission System (\$400,000) and Authorizing the City Manager to Execute the Contract"

This item was pulled by Council Member Katzakian for further discussion.

In response to Council Member Katzakian, Public Works Director Prima stated there is no commitment to take the project any further than the scope outlined in the staff report, which is primarily through a variety of reports and studies. Mr. Prima stated the national firm is reputable, has written casebooks regarding the subject matter, and would be capable of designing the project.

**MOTION / VOTE:**

The City Council, on motion of Mayor Johnson, Katzakian second, unanimously adopted Resolution No. 2007-56 awarding the contract to HDR, Inc., of Folsom, for surface water treatment facility conceptual design and feasibility evaluation for water supply and transmission system in the amount of \$400,000 and authorizing the City Manager to execute the contract.

- E-8 "Approve New Development Code Update Plan and Adopt Resolution Authorizing the City Manager to Enter into a Contract with Jacobson & Wack in the Amount of up to \$55,000 for Contract Services Related to the Completion of the Development Code Update"

Council Member Hitchcock pulled this item for further discussion and presentation.

Community Development Director Hatch provided an overview of the history and current status of the proposed development code, specifically outlining the information provided at the February 13, 2007, Shirtsleeve Session.

Council Member Hitchcock stated she will not support approving the contract based on her concerns regarding the process, previous budget allocations, timing, costs, amendments, and the draft code document. Community Development Director Hatch replied a noticed hearing is required before the Planning Commission and items, such as residential intensification and mobile food vendors, must be added to the draft code document.

Council Member Hansen stated he is looking forward to getting back on track and taking advantage of institutional knowledge provided by previous consultants.

**MOTION:**

Council Member Hansen made a motion, Mounce second, to approve the new Development Code Update Plan and adopt Resolution No. 2007-57 authorizing the City Manager to enter into a contract with Jacobson & Wack in the amount of up to \$55,000 for contract services related to the completion of the Development Code update.

*Continued April 4, 2007*

DISCUSSION:

Mayor Pro Tempore Mounce stated she believed the proposed development code will help address issues in the aging parts of the City.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Katzakian, Mounce, and Mayor Johnson

Noes: Council Members – Hitchcock

Absent: Council Members – None

- E-9 “Adopt Resolution Ratifying Memorandums of Understanding with the Lodi City Employees General Services and Maintenance and Operators Units (July 1, 2006 through June 30, 2008)”

Council Member Hitchcock requested a presentation regarding the subject matter.

City Manager King provided an overview of the proposed Memorandums of Understanding (MOU). He specifically discussed negotiating with the two bargaining units, action based upon Council direction, one frozen year without any increase, term expirations, the International Brotherhood of Electrical Workers (IBEW) MOU, and staff recommendation. Mr. King also thanked the groups for foregoing one year cost of living adjustment (COLA) increases for the betterment of the City.

In response to Council Member Hitchcock, Mr. Krueger stated the 3% to 5% COLA range is similar to the IBEW provisions and is reasonable based on Consumer Price Index comparisons.

Discussion ensued between Council Member Hitchcock, City Manager King, and Deputy City Manager Krueger regarding the applicability of a “me too” clause.

In response to Council Member Hitchcock, Mr. King stated salary survey benchmarks can be based on the nine City survey groups or on positions. He stated the ability to pay is also a consideration. Mr. Krueger stated they will start the survey process on January 1, 2008, and expect it to be completed by April 2008.

MOTION / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, unanimously adopted Resolution No. 2007-58 ratifying MOUs with the Lodi City Employees General Services and Maintenance and Operators Units (July 1, 2006 through June 30, 2008).

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Gene Davenport provided the City Council with a brochure of information regarding the establishment of the San Joaquin DART Team and provided a brief presentation regarding the same.
- Kathy McClelland, Director of the Building Blocks organization, provided a brief presentation regarding the April 7, 2007, 5K run and walk benefit.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

None.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King reported that City Engineer Wally Sandelin and Parks and Recreation Director Tony Goehring were retiring and congratulated them on their years of service.

*Continued April 4, 2007*

I. PUBLIC HEARINGS

- I-1 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to receive public input and to consider adoption of a resolution to act to form the Community Facilities District No. 2007-1 (Public Services) and set an election date for April 11, 2007. City Manager King briefly introduced the subject matter.

City Engineer Wally Sandelin provided a brief PowerPoint presentation discussing topics including, but not limited to, Reynolds Ranch, community facilities report, goals and policies, services to be funded, services cost estimate, public hearing, proposed resolution, and amended boundary map.

In response to Council Member Hansen, City Manager King stated the community facilities district (CFD) looks at services only and not capital projects. He stated properties on the amended boundary map are conditioned to join at a later date.

In response to Council Member Hitchcock, City Manager King stated a new subdivision of five or more units, which is consistent with the Subdivision Act, will be required to join the current CFD or form an additional CFD. Consultant Susan Goodwin stated a single property currently located within the boundaries of the district will be taxed if it subdivides at a future date. City Attorney Schwabauer stated the provisions of the Subdivision Act prevent single lot developments through subterfuge.

In response to Council Member Hansen, City Manager King stated there is an expectation of 100% on the election for properties covered by the development agreement.

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2007-59 establishing Community Facilities District No. 2007-1 (Public Services) and calling an election for April 11, 2007, for the purpose of submitting the levy of the special tax and the establishment of an appropriations limit to the qualified electors of the proposed Community Facilities District.

- I-2 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider resolution adopting Engineer's Report, confirming assessments, overruling protests, and declaring assessment ballot results and annexing territory into the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 and forming Guild Avenue Industrial Zone 13.

City Manager King briefly introduced the subject matter.

Senior Civil Engineer Sharon Welch provided a brief report regarding the Lodi Consolidated Landscape Maintenance Assessment District 2003-1 and Guild Avenue Industrial Zone 13. Ms. Welch specifically discussed the three subject parcels, improvement overviews for Victor Road, and assessment and revenue timelines.

In response to Council Member Hitchcock, Ms. Welch stated the 5% maximum for the three parcels increases on an annual basis.

*Continued April 4, 2007*

Hearing Opened to the Public

None.

Public Portion of Hearing Closed

RECESS

At 8:27 p.m., Mayor Johnson called for a recess, and the City Council meeting reconvened at 8:37 p.m.

I. PUBLIC HEARINGS (Continued)

I-2 City Clerk Johl reported that the election results were as follows:  
(Cont'd.)

Property owner Archer Daniels Midland Corporation (APN 049-040-91) represents 58.77% of the total assessment, which equals \$5,351.99. This property owner voted in favor of the assessment.

Property owner Clarkson California Properties (APN 049-080-17) represents 21.26% of the total assessment, which equals \$1,936.32. This property owner voted in opposition to the assessment.

Property owner Delmar and Doris Batch (APN 049-080-16) represent 19.97% of the total assessment, which equals \$1,818.21. To date, this property owner did not vote.

The assessment was successful by a 58.77% majority vote.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, unanimously adopted Resolution No. 2007-60 declaring the results of the assessment ballot tabulation, to annex territory into the Lodi Consolidated Landscape Maintenance District No. 2003-1, ordering maintenance work therein, and confirming the report, diagram, and assessment and providing for the levy of the annual assessment therein.

I-3 Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Johnson called for the public hearing to consider approval of the following items:

- a) Approve the following Negative Declarations:
  - Negative Declaration 06-03 for the General Plan amendment and change in zoning for the Gini Project (expansion of auto-related businesses);
  - Negative Declaration 06-04 for the General Plan amendment and change in zoning for the Lodi Memorial Hospital Project (new south wing addition and other related facilities);
- b) Amend the General Plan designation for 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project) and for 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital Project);
- c) Rezone 1333 and 1325 South Central Avenue from RE-1, Single Family Residential Eastside, to C-2, General Commercial; and
- d) Rezone 975, 999, and 1031 South Fairmont Avenue; 1200 West Vine Street; and 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from RCP, Residential-Commercial-Professional Office, and R2, Residence District, to PD, Planned Development, and approve Development Plan.

NOTE: Due to a potential conflict of interest stemming from his employment as a real estate appraiser, Mayor Johnson abstained from discussion and voting on the Lodi Memorial Hospital Project matter only (not the Gini Project).

*Continued April 4, 2007*

Community Development Director Hatch provided a historical review and current status report of the proposed Gini Project, including Planning Commission review and staff recommendation regarding the same.

In response to Council Member Hitchcock, Mr. Hatch stated the proposed usage is auto-related and the proposed parking, based on square footage, meets City standards and does not take into account the bays, which may represent additional parking.

In response to Council Member Hitchcock, Mr. Hatch stated staff did review the parking by the church and determined that the west side parking would not be burdened because all other parking requirements were met. Discussion ensued between Council Member Hitchcock and Mr. Hatch regarding the masonry wall, final building designs, and egress and ingress from Kettleman Lane for circulation needs.

In response to Mayor Pro Tempore Mounce, Mr. Hatch stated the adjacent houses may have been originally zoned commercial. He stated the zoning would not prevent normal maintenance but may require permits for certain repairs and expansions.

Hearing Opened to the Public – Gini Project

- Ken Gini, owner of the property, spoke in favor of the proposed action, based on his desire to expand and contribute to the community. In addition, he stated he is donating to Habitat for Humanity in an effort to address Ann Cerney's concerns regarding affordable housing. In response to Council Member Hansen, Mr. Gini stated the main access is through Kettleman Lane and there is no signage on Central Avenue. He stated he has been in business for 20 years and is adding services.
- Ann Cerney spoke in regard to her concern about California Environmental Quality Act compliance and stated she would like to see something specific about Mr. Gini's offer to donate to Habitat for Humanity.

In response to Council Member Hitchcock, Mr. Hatch stated there was not a significant impact on traffic, they received affirmative comments from Public Works on the ability to serve, and there are mandated oil separators for an auto-related business.

Community Development Director Hatch provided a historical review and current status report of the proposed Lodi Memorial Hospital Expansion Project, including Planning Commission review and staff recommendation regarding the same.

Mayor Johnson recused himself based on the appearance of a conflict as related to a business interest.

In response to Council Member Hitchcock, Mr. Hatch stated Phase 1 will meet parking requirements by using homes fronting Cardinal Street, but the parking structures will be necessary for Phases 2 and 3.

In response to Council Member Hansen, Mr. Hatch stated the new entrance is off of Ham Lane.

Hearing Opened to the Public – Lodi Memorial Hospital Project

- Joe Harrington, Chief Executive Officer for Lodi Memorial Hospital, stated the proposed expansion addresses ongoing efforts to meet the needs of the hospital until 2030 for growth and seismic requirements, medical and surgical beds, and emergency services. In response to Council Member Hitchcock, Mr. Harrington stated the entire project will cost approximately \$196 million. In response to Council Member Hansen, Mr. Harrington stated they will tear down the existing structure, instead of remodeling, because of seismic concerns and the parking structure will have to be completed prior to the wing. In response to Council Member Katakian, Mr. Harrington stated the expansion will include 90 additional beds in private rooms.

Public Portion of Hearing Closed



*Continued April 4, 2007*

MOTION #1 / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Hansen second, unanimously adopted Resolution No. 2007-61 certifying Negative Declaration 06-03 as adequate environmental documentation for the Gini Project General Plan amendment and rezone.

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, adopted Resolution No. 2007-62 certifying Negative Declaration 06-04 as adequate environmental documentation for the Lodi Memorial Hospital Project General Plan amendment and rezone. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Katzakian, and Mounce  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Mayor Johnson

MOTION #3 / VOTE:

The City Council adopted Resolution No. 2007-63 by the following motions/votes:

- On motion of Mayor Pro Tempore Mounce, Hansen second, unanimously amended the Land Use Element of the Lodi General Plan by redesignating 1333 and 1325 South Central Avenue from Eastside Residential to General Commercial (Gini Project); and
- On motion of Council Member Hitchcock, Hansen second, amended the Land Use Element of the Lodi General Plan by redesignating 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from Low Density Residential to Office (Lodi Memorial Hospital Project) by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Katzakian, and Mounce  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Mayor Johnson

MOTION #4 / VOTE:

The City Council, on motion of Mayor Pro Tempore Mounce, Katzakian second, unanimously introduced Ordinance No. 1795 amending the Official District Map of the City of Lodi and thereby rezoning 1325 and 1333 South Central Avenue (APN 047-270-11 and 047-270-12) from RE-1, Single Family Residential Eastside, to C-2, General Commercial, for the Gini Project.

MOTION #5 / VOTE:

The City Council, on motion of Council Member Hitchcock, Hansen second, introduced Ordinance No. 1796 amending the Official District Map of the City of Lodi and thereby rezoning 975, 999, and 1031 South Fairmont Street; 1200 West Vine Street; and 1201, 1139, 1133, 1127, 1121, and 1115 West Cardinal Street from R-C-P, Residential-Commercial-Professional Office, and R-2, Residence District, to PD, Planned Development, for the Lodi Memorial Hospital Project. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Katzakian, and Mounce  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Mayor Johnson

MOTION #6 / VOTE:

The City Council, on motion of Council Member Hitchcock, Mounce second, adopted Resolution No. 2007-64 approving the Lodi Memorial Hospital Project Development Plan. The motion carried by the following vote:

Ayes: Council Members – Hansen, Hitchcock, Katzakian, and Mounce  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Mayor Johnson

*Continued April 4, 2007*

J. COMMUNICATIONS

J-1 Claims Filed Against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Mayor Pro Tempore Mounce, Johnson second, unanimously directed the City Clerk to post for the following expiring terms and vacancies:

Greater Lodi Area Youth Commission (Student Appointees)

Larissa Boyer	Term to expire May 31, 2007
Corinne Casey	Term to expire May 31, 2007
Jordan McCroskey	Term to expire May 31, 2007
Jonathan Newman	Term to expire May 31, 2007
Holly Jacobus	Term to expire May 31, 2008
Sarah McConahey	Term to expire May 31, 2008
Whitney Sandelin	Term to expire May 31, 2008

Library Board of Trustees

Cynthia Neely	Term to expire June 30, 2007
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Lodi Arts Commission

Laura Heinitz	Term to expire July 1, 2007
Margie Lawson	Term to expire July 1, 2007
Beverly Norcross	Term to expire July 1, 2007

Planning Commission

Randy Heinitz	Term to expire June 30, 2007
Gina Moran	Term to expire June 30, 2007

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 "Adopt Resolution Authorizing the City Manager to Execute a Memorandum of Understanding with San Joaquin County for Provision of Domestic Wastewater Treatment Services for County Service Area 31 (Flag City)"

Public Works Director Prima provided a general overview of the proposed Memorandum of Understanding (MOU) with San Joaquin County regarding Flag City as outlined in detail in the Council Communication. City Attorney Schwabauer stated the agreement does not cede land use control to the City, but it does ensure a third party cannot sue the City or County contending the City must admit them for treatment plant services. City Manager King stated the agreement also allows for a tax share agreement.

In response to Council Member Hitchcock, Mr. Schwabauer stated the City cannot control land use decisions by the County, but it can say that it will not expand sewer service to serve expanded areas, which practically will limit the County's ability to expand or necessitate it building a plant of its own.

In response to Council Member Hitchcock, Mr. Schwabauer stated what to do in the event of an unauthorized connection is a negotiation point. Mr. King stated the purpose of the agreement is to have an ability to exercise some control over Flag City and obtain a tax base share, and not to be in the business of selling wastewater services.

Discussion ensued between Council Member Hitchcock, City Attorney Schwabauer, City Manager King, and Public Works Director Prima regarding exercising control over the County service area, obtaining a tax share of the serviced areas, punitive penalties, language protection in the agreement, services both in and outside of the City, capacity

*Continued April 4, 2007*

concerns and possible expansion, design guidelines (which may be a precondition to enter into the agreement; although, the County still retains the ability to change), discharge permit, and access to the plant for connection purposes.

In response to Mayor Pro Tempore Mounce, Mr. Prima stated Stockton could physically hook-up to Lodi's connection, but it does not believe it is practical.

In response to Council Member Katzakian, Mr. Prima stated capacity is determined by showing the State that we can meet the capacity standards that we are asking for and there is sufficient cushion in the current application.

In response to Council Member Hansen, Mr. Prima stated a high-strength customer is defined in the ordinance based on volume.

PUBLIC COMMENTS:

- Ann Cerney stated the proposed MOU is discretionary and commented on California Environmental Quality Act requirements, growth considerations, and an administrative fee.

In response to Council Member Hansen, Mr. Prima stated the \$6 million capacity fee is a one-time cost paid before connection.

In response to Council Member Hansen, City Attorney Schwabauer stated in order to meet growth needs, Stockton would have to drastically change its current facility, build a new facility at great expense, or connect to the City's facility.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Katzakian second, adopted Resolution No. 2007-65 authorizing the City Manager to execute an MOU with San Joaquin County, including terminology for design standards, for provision of domestic wastewater treatment services for County Service Area 31 (Flag City). The motion carried by the following vote:

Ayes: Council Members – Hansen, Katzakian, and Mayor Johnson  
Noes: Council Members – Hitchcock and Mounce  
Absent: Council Members – None

- K-2 "Review Groundwater Charge for City Wells Proposed by the North San Joaquin Water Conservation District and Direct Staff as Appropriate"

***This item was tabled until the April 18, 2007, Council meeting to provide District staff with an opportunity to attend the meeting.***

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously tabled the matter until the regular meeting of April 18, 2007.

- K-3 "Adopt Resolution Approving Contract with Boom Boom Productions, of Hayfork, CA, for 2007 Fourth of July Fireworks Display and Approve Proposed Venue Location"

City Manager King provided a brief introduction to the subject.

Parks and Recreation Director Tony Goehring provided a PowerPoint presentation regarding the proposed 2007 Fourth of July fireworks display and venue location. Specific topics of discussion included contract with vendor of choice, site locations, fallout regulations, the undeveloped 13-acre site at Lodi Lake, advantages of the recommended site, Parks and Recreation Commission support, Rotary and World of Wonders (WOW) group involvement and costs associated with the same, fencing as security measure, admission to Lodi Lake, safety concerns, and costs associated with trash receptacles, port-a-potties, and personnel.

*Continued April 4, 2007*

In response to Council Member Hitchcock, Mr. Goehring stated the City has not made a profit for the last nine years for the Oooh Ahhh festival, but it may come out ahead this time. City Manager King stated there is a small amount of funding for special events in the current budget.

Discussion ensued between the City Council and Mr. Goehring regarding charging an entrance fee.

In response to Council Member Hansen, Mr. Goehring stated there will be a weapons check using the wand.

Mayor Pro Tempore Mounce stated Stockton may be reconsidering having a fireworks display for the Fourth of July.

Sally Snyder, representative from WOW, stated it is planning on having a small family-friendly event in a specified area to promote the museum and fundraiser for Rotary.

City Manager King stated the proposed vendors are Boom Boom, Inc. and Pyro Spectaculars. City Attorney Schwabauer stated there is a provision for a three-year term of contract with Pyro Spectaculars that he will follow up on.

Discussion ensued between Council Member Hitchcock, Mayor Pro Tempore Mounce, City Manager King, and City Attorney Schwabauer regarding liability concerns and proper insurance coverage.

Verne Person stated the Fire Department is supportive of working with both companies.

MOTION / VOTE:

The City Council, on motion of Mayor Johnson, Mounce second, unanimously adopted Resolution No. 2007-66 approving a one-year contract with Pyro Spectaculars, Inc., for 2007 Fourth of July fireworks display, in the amount of \$22,000, and approved the proposed venue location of the undeveloped 13-acre area west of Lodi Lake.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Mounce, Hitchcock second, unanimously voted to continue with the remainder of the meeting, with the exception of Items K-4 and K-5, following the 11:00 p.m. hour.

K. REGULAR CALENDAR (Continued)

K-4 "Adopt Resolution Certifying Negative Declaration and Authorizing the City Manager to Execute Contracts for Construction, Testing and Inspection, and Construction Administration for White Slough Water Pollution Control Facility Phase 3 Improvements Project (\$17,543,774) and to Adjust Existing Appropriations" was ***pulled from the agenda pursuant to the above vote.***

K-5 "Consideration of Adjustments to the City Manager and City Attorney Employment Agreements" was ***pulled from the agenda pursuant to the above vote.***

*Continued April 4, 2007*

L. ORDINANCES

L-1 Following reading of the title of Ordinance No. 1793 entitled, "An Ordinance of the City Council of the City of Lodi Approving the Request of Tom Doucette, Frontier Community Builders, for Pre-Zoning to PD (Planned Development) on 151 Acres (Westside Project)," having been introduced at a regular meeting of the Lodi City Council held April 4, 2007, the City Council, on motion of Mayor Johnson, Hitchcock second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, and Mayor Johnson

Noes: Council Members – Mounce

Absent: Council Members – None

Abstain: Council Members – Hansen

L-2 Following reading of the title of Ordinance No. 1794 entitled, "An Ordinance of the City Council of the City of Lodi Adopting a Development Agreement Pertaining to the Development of 151 Acres Located on the West Side of Lower Sacramento Road between the Woodbridge Irrigation District Canal and Vine Street (Westside Project) (Development Agreement GM-05-002)," having been introduced at a regular meeting of the Lodi City Council held April 4, 2007, the City Council, on motion of Mayor Johnson, Katzakian second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Hitchcock, Katzakian, Mounce, and Mayor Johnson

Noes: Council Members – None

Absent: Council Members – None

Abstain: Council Members – Hansen

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:34 p.m.

ATTEST:

Randi Johl  
City Clerk

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, APRIL 25, 2007**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of April 25, 2007, was called to order by Chair Kuehne at 7:00 p.m.

Present: Planning Commissioners – Cummins, Kiser, Mattheis, Moran, White, and Chair Kuehne

Absent: Planning Commissioners – Heinitz

Also Present: Community Development Director Randy Hatch, Planning Manager Peter Pirnejad, Senior Planner David Morimoto, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

None

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request of the Planning Commission to Determine that the possible sale of various City-owned properties within the City of Lodi will be in conformity with the City's General Plan.

David Morimoto gave a brief explanation of this item. California Law requires that the local Planning Agency make a determination that the possible sale of the said property is in conformity with the General Plan. The properties are: 500 S. Guild Avenue which is General Planned Heavy Industrial; 1119 & 1120 Awani Drive which is General Planned Low Density Residential; Century Boulevard right of way which is General Planned Drainage basin Park/Heavy Industrial; 217 East Lockeford Street which is General Planned Public Quasi Public & Light Industrial; White Slough Wastewater Treatment Property, Thornton Road which is General Planned Agriculture. This last property is not for possible sale, but the San Joaquin Multi-Species Habitat Conservation would like to acquire an easement for natural Habitat purposes. 2245 Tienda Drive is also on the list, but was not noticed so will need to come back at a future meeting.

In response to Commissioner Kiser, Mr. Hatch stated that the property around White Slough would still be used for it's intended purpose for wastewater land application.

In response to Commissioner Kiser, Ms. Magdich stated that a full disclosure regarding the sale of the Awani property and its possible contamination would have to be made to any potential buyers.

In response to Commissioner Mattheis, Mr. Morimoto stated that this meeting is strictly for the Commission to determine the conformity of the possible sale of the property to the General Plan. Issue of actual sale and re-use would be before the City Council.

Hearing Opened to the Public

- Bonnie Rainguber, 127 Mokelumne River Dr., came forward to present her views. She focused on the Awani Drive Property.

*Continued*

- Anne Cerny, 900 W. Vine St., came forward to present her views. She focused on the White Slough Property. Ms. Cerny feels this would be a policy change and subject to CEQA.

Public Portion of Hearing Closed

- Mr. Hatch addressed the questions that were raised by the public by stating that the issues raised will all be addressed at the City Council meeting when the properties come up for sale, not at this meeting.
- In response to Commissioner Moran, Mr. Hatch stated that the Categorical Exemption is to allow for the sale of the property not the development of it. Ms. Magdich stated that when and if the sale occurred the sale would be no more than a transfer of title.
- Commissioner Mattheis would like to see the Century Blvd property taken off the list.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, determines that the possible sale of the City-owned properties at 500 S. Guild Avenue, 1119 & 1120 Awani Drive, 217 E. Lockeford St., and the White Slough Wastewater Treatment Property will be in conformity with the city's general plan, but possible sale of the Century Boulevard Property is not due to its designation as a future roadway.

DISCUSSION BEFORE THE VOTE:

Commissioner Cummins wanted some clarification regarding the Century Blvd. Property. Mr. Hatch stated that the thought is that the State Public Utility Commission (PUC) would not allow a street level crossing in that area and an under or over crossing would be too costly to be built.

Commission stated that funds may be found in the future and this right-of-way should be preserved. The Motion Carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, White, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Heinitz

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request of Archer Daniels Midland (ADM) for a Use Permit to allow the construction of a Sweetener Distribution Facility that includes the outside storage of railroad cars at 350 North Guild Avenue and approval of a Negative Declaration as adequate environmental documentation.

Mr. Morimoto gave a brief power point presentation describing the project. The Project is located on the North East corner of Victor Road and Guild Avenue. The Use Permit was triggered by the outside storage tanks and the storage of tanker railcars. The project is being proposed in three phases (rendering available in the file).

In response to Chair Kuehne, Mr. Morimoto stated that the rail traffic across Victor Road would be addressed by CalTrans.

Vice Chair Moran, Chair Kuehne, Commissioner Mattheis, and Commissioner Cummins stated that they had had contact with the proponent of the project although Vice Chair Moran did not speak to them directly, she did receive a phone message.

In response to Vice Chair Moran, Mr. Morimoto stated that in Phase one the property will be fully developed with landscaping.



*Continued*

Hearing Opened to the Public

- Ian Pullen, 2118 Capitola, applicant, came forward to give a brief presentation and to answer questions. There should be a total of approximately 53 employees by the end of phase three.

Public Portion of Hearing Closed

- Commissioner Mattheis stated that he thought this was a good project and the Negative Declaration served as an adequate environmental document. Commissioner Cummins agreed.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Cummins second, approved a Mitigated Negative Declaration for the Archer Daniels Midland (ADM) Sweetener Product Facility at 350 North Guild Avenue subject to the conditions in the Resolution P.C. 07-08. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, White, and Chair Kuehne  
Noes: Commissioners – None  
Absent: Commissioners – Heinitz

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Cummins, Moran second, approved a Use Permit for the Archer Daniels Midland (ADM) Sweetener Product Facility at 350 North Guild Avenue subject to the conditions in the Resolution P.C. 07-09. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, White, and Chair Kuehne  
Noes: Commissioners – None  
Absent: Commissioners – Heinitz

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider a Variance to eliminate a required 5-foot building setback separating a commercial building from the north property line at 1333 South Central Avenue; and Approval of the project site plan and architecture of proposed buildings at 1325 and 1333 South Central Avenue

Randy Hatch stated that the recommendation for this item is to continue it to the May 9<sup>th</sup> meeting.

Hearing Opened to the Public

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, approved the request to continue the public hearing for item 3c, a variance to eliminate a required 5-foot building setback separating a commercial building from the north property line at 1333 South Central Avenue; and approval of the project site plan and architecture of proposed buildings at 1325 and 1333 South Central Avenue, to a date certain of Wednesday, May 9, 2007. The motion carried by the following vote:

Ayes: Commissioners – Cummins, Kiser, Mattheis, Moran, White, and Chair Kuehne  
Noes: Commissioners – None  
Absent: Commissioners – Heinitz

*Continued*

4. PLANNING MATTERS

Randy Hatch reported that progress is being made on the EIR re-do for the Lodi Shopping Center. The update of the Development Code is also moving forward as is the update of the General Plan. There continues to be effort put into the Delta College Project. The Blue Shield office building is going forward. The applications for Growth Management Allocations for the 2006 year are being split into separate groups to help move them forward. Mr. Hatch also stated that he attended the APA National conference in Philadelphia last week.

5. ANNOUNCEMENTS AND CORRESPONDENCE

None

6. ACTIONS OF THE CITY COUNCIL

Randy Hatch reported that the Card Room appeal was denied with the added conditions of the word Casino being removed from the name and the operating hours will end at 2:00am not 4:00am. The Ken Gini and Lodi Memorial Hospital projects received their final re-zoning approvals and are now moving forward.

7. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

8. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE

None

9. ART IN PUBLIC PLACES

Peter Pirnejad reported that he made a presentation for an art piece on the corner of Washington Street and Lodi Avenue that would comply with the EMAP guidelines.

10. COMMENTS BY THE PUBLIC

None

11. COMMENTS BY STAFF AND COMMISSIONERS

None

12. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:47 p.m.

ATTEST:

Randy Hatch  
Community Development Director

**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, MAY 9, 2007**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of May 9, 2007, was called to order by Chair Kuehne at 7:05 p.m.

Present: Planning Commissioners – Kiser, Mattheis, White, and Chair Kuehne

Absent: Planning Commissioners – Cummins, Moran, Heinitz

Also Present: Community Development Director Randy Hatch, Planning Manager Peter Pirnejad, Senior Planner David Morimoto, Junior Planner Rick Caguiat, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. MINUTES

“September 13, 2006”

MOTION / VOTE:

No Motion / Vote.

A quorum is not present.

“September 27, 2006” & “April 25, 2007”

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, Mattheis second, approved the minutes as written. (4-0 vote: Cummins, Heinitz & Moran absent)

3. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request of the Planning Commission to Determine that the possible sale of City-owned property at 2245 Tienda Drive within the City of Lodi will be in conformity with the City's General Plan.

David Morimoto, Senior Planner, gave a brief PowerPoint presentation based on the staff report. Mr. Morimoto stated that this item is to determine if the possible sale of the property will conform to the General Plan.

Hearing Opened to the Public

- None

Public Portion of Hearing Closed

- None

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, determined that the possible sale of City-owned property at 2245 Tienda Drive within the City of Lodi will be in conformity with the City's General Plan. The motion carried by the following vote:

Ayes: Commissioners – Kiser, Mattheis, White, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Cummins, Heinitz, Moran

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider a Variance to eliminate a required 5-foot building setback separating a commercial building from the north property line at 1333 South Central Avenue; and Approval of the project site plan and architecture of proposed buildings at 1325 and 1333 South Central Avenue. (Applicant, Kenneth J. Gini; File # 07-A-03 07-SP-02)

Randy Hatch, Director, gave a brief PowerPoint presentation based on the staff report. Mr. Hatch stated that the zoning code states that there must be a 5 foot buffer between Commercial and Residential. Mr. Gini's plan requires the entire footprint of the property and therefore requires a Variance. This hearing will also be looking at the site plan and architectural design portion of the application as per the Commissions direction.

In response to Commissioner White, Mr. Hatch stated that the 10 foot driveway directly to the north is owned by a separate individual than the 10 foot section that is directly in front of the residential dwellings. There is a total of 20 feet of driveway access separating this project from the residences and it is used for general vehicle, fire department, and pedestrian access. The roll-up doors that will have direct access to this access is permissible. The roll-up doors appear to open onto 10' of property owned by the applicant.

Chair Kuehne wanted to point out that condition 12 in the resolution states that there shall be no openings permitted on walls less than 5 feet from the property line. Commissioner Mattheis stated that the doors may be in the area west of where the 10 foot driveway ends.

In response to Chair Kuehne, Mr. Hatch stated that there is only one landscape parking island that does not meet the 5 foot minimum width.

Commissioner Mattheis voiced his concerns regarding the proximity of a heavy industrial use to the residential area directly north of the property. He also didn't see where the hardship came into play. Mr. Hatch stated that staff felt that the 10 foot strip of property to the north and the 10 foot "no build" easement in the center of the property gave the application a unique hardship situation.

Commissioner Mattheis wanted to know if an arborist was called regarding the large Cedar tree. Mr. Hatch stated that there was not an arborist contacted. The tree loss was noted in the Environmental Document.

Commissioner Kiser stated that the owner of the parcel to the north could put up a fence cutting off access to the back area of the project property. Mr. Hatch stated that the parcel is the primary access for the residential units to the north of the property. Ms. Magdich stated that the issue of a prescriptive easement would have to be settled by the courts, the City could not make that determination.

#### Hearing Opened to the Public

- Ken Gini, applicant, came forward to answer questions. Mr. Gini stated that the current building already has access to the property to the north. He also stated that he plans to

shorten the building to insure that there is plenty of parking and turn-a-round radius in the parking lot. Mr. Gini wants to make this project look as nice as possible. The intent is not to adversely affect the neighbors to the north.

- In response to Chair Kuehne, Mr. Gini stated that on building B he would like to use the split face block instead of the design work within the wall itself.

Commissioner Mattheis stated that he met with the applicant at the applicant's place of business at Mr. Gini's request.

- Commissioner Mattheis stated that he feels that there is too much building for the lot. He is not comfortable with the Use in that area and the site plan elevations are too plain.

Chair Kuehne stated that he also met with Mr. Gini regarding this application.

Public Portion of Hearing Closed

- Chair Kuehne stated that he doesn't feel this is going to look any worse and maybe better than other areas around town.
- Commissioner Kiser stated that he would like to see some changes in the architectural part of the application.
- Commissioner White stated that he did not have a problem with the variance, but would like to see changes to the architectural part of the application also.
- Commissioner Mattheis stated that he still has reservations with this project. Commissioner Mattheis doesn't feel that a hardship should apply in this case to allow for the Variance. He would like to see this project brought back to the Commission with a revised proposal. Commissioner Kiser agreed.
- Commissioner White would like to give Mr. Gini the Variance so he knows what area he is working within and then require the Site Plan and Architectural portion to be brought back for review.
- Randy Hatch stated for confirmation the items that the Commission would like the applicant to reevaluate: 1 – The dead-end parking isle; 2 – The minimum landscape standards; 3 – North side wall; 4 – The Variance itself being at its max.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Mattheis, Kiser second, continued item b to June 27, 2007. The motion carried by the following vote:

Ayes: Commissioners – Kiser, Mattheis, and Chair Kuehne

Noes: Commissioners – White

Absent: Commissioners – Cummins, Heinitz, Moran

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Kuehne called for the public hearing to consider the request for a Use Permit to allow on-sale beer and wine at Thai Spices Restaurant located at 2401 W. Turner Road Suite 224.

Rick Caguiat, Junior Planner, gave a brief PowerPoint presentation based on the staff report. Mr. Caguiat stated that staff is in support of this project.

In response to Chair Kuehne regarding the former Use Permit at this address, Mr. Hatch stated that if a Use Permit is inactive for more than 6 months, the permit expires and a new tenant must get a new Use Permit.

Hearing Opened to the Public

- Kevin Dobbie, applicant, came forward to answer questions.
- In response to Chair Kuehne, Mr. Hatch stated that the occupancy will have to be under 49 to meet the requirements of the Fire Department.

Public Portion of Hearing Closed

- None

MOTION / VOTE:

The Planning Commission, on motion of Commissioner White, Mattheis second, approved the request for a Use Permit to allow on-sale beer and wine at Thai Spices Restaurant located at 2401 W. Turner Road Suite 224 subject to the conditions in the resolution. The motion carried by the following vote:

Ayes: Commissioners – Kiser, Mattheis, White, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Cummins, Heinitz, Moran

4. NEW BUSINESS

- a) Request of Baumbach & Piazza, Inc. on behalf of Patrick Estes for a one year time extension on a previously approved Tentative Parcel Map to divide one parcel into two parcels at 403 W. Elm Street.

Rick Caguiat gave a brief PowerPoint presentation based on the staff report. Mr. Caguiat stated that the application has been re-circulated to all the appropriate departments and the attached resolution reflects their comments.

Hearing Opened to the Public

- Patrick Estes, applicant, came forward to answer questions. Mr. Estes stated that he had no intention of developing the second lot at this time. Prior to him buying the property Baumbach & Piazza had 80% of the work for it done, so he figured he would follow through with it to the end. He would like to see if he can defer some of the Public Works Fees. Mr. Hatch stated that the fees are a condition set forth by the Public Works Department and it would be up to them to change it.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kiser, White second, approved the request of Baumbach & Piazza, Inc. on behalf of Patrick Estes for a one year time extension on a previously approved Tentative Parcel Map to divide one parcel into two parcels at 403 W. Elm Street. The motion carried by the following vote:

Ayes: Commissioners – Kiser, Mattheis, White, and Chair Kuehne

Noes: Commissioners – None

Absent: Commissioners – Cummins, Heinitz, Moran

*Continued*

5. PLANNING MATTERS

Mr. Hatch stated that on the 13<sup>th</sup> of June there is a General Plan Update Public Workshop planned which will take the place of a regular Planning Commission Meeting and all Commissioners are encouraged to attend.

6. ANNOUNCEMENTS AND CORRESPONDENCE

None

7. ACTIONS OF THE CITY COUNCIL

Mr. Hatch stated that there was a status report for the General Plan Update taken to the last Council Meeting.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

None

9. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE

None

10. ART IN PUBLIC PLACES

None

11. COMMENTS BY THE PUBLIC

None

12. COMMENTS BY STAFF AND COMMISSIONERS

None

13. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:57 p.m.

ATTEST:

Randy Hatch  
Community Development Director



**LODI PLANNING COMMISSION  
REGULAR COMMISSION MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JULY 25, 2007**

1. CALL TO ORDER / ROLL CALL

The Regular Planning Commission meeting of July 25, 2007, was called to order by Chair Mattheis at 7:00 p.m.

Present: Planning Commissioners – Hennecke, Kirsten, Kiser, Mattheis, White, and Chair Kuehne

Absent: Planning Commissioners – Cummins

Also Present: Community Development Director Randy Hatch, Planning Manager Peter Pirnejad, Junior Planner Rick Caguiat, Junior Planner Immanuel Bereket, Deputy City Attorney Janice Magdich, and Administrative Secretary Kari Chadwick

2. Swearing in of all Commissioners

- Chair Mattheis asked for the reasoning behind this new procedure. Randy Hatch stated that while it isn't required it is a good idea for a Commission that hears and renders important decisions such as the Planning Commission to take the oath similar to the City Council.

3. MINUTES

"May 9, 2007"

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Kiser, Kuehne second, approved the Minutes of May 9, 2007 as written. (4-0 – Hennecke & Kirsten abstain, Cummins absent)

"July 11, 2007"

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kirsten, Hennecke second, approved the Minutes of July 11, 2007 as written. (6-0 – Cummins absent)

4. PUBLIC HEARINGS

- a) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Mattheis called for the public hearing to consider the request of the Planning Commission for approval of a Variance to eliminate a required 5-foot building setback separating a commercial building from the north property line at 1333 South Central Avenue. (Applicant, Kenneth J. Gini; File # 07-A-03); and Approval of the project site plan and architecture for the proposed buildings at 1325 and 1333 South Central Avenue (Applicant, Kenneth J. Gini, File # 07-SP-02).

Randy Hatch, Director, gave a brief PowerPoint presentation based on the staff report. Staff feels this project meets all the qualifications necessary to warrant a Variance and recommends approval.

Commissioner Kuehne asked about condition #25 that refers to Standard Plan 111. Mr. Hatch stated that that condition is a Public Works condition and refers to the turn around radius within the parking lot.

Commissioner Kuehne didn't see the condition referring to the time constraint for the pick-up of the trash bins. Mr. Hatch stated that it can be added to condition #29.

*Continued*

Chair Mattheis stated that one of the parking spaces will have to be removed to accommodate ADA requirements. Mr. Hatch stated that he had talked with the Building Official about that and the Landscape plan will have to come back to staff and we may lose part of the landscaping or another parking space.

Commissioner Kuehne disclosed that he had met with Mr. Gini and Mr. Pennino regarding this project. Chair Mattheis, Vice Chair Kiser, Commissioner Hennecke, and Commissioner Kirsten disclosed the same.

Commissioner Hennecke asked about the doors opening to the north. Mr. Hatch stated that there is not a requirement within the codes to have the doors there; they are the choice of the applicant.

Chair Mattheis stated that the doors on the north side of the building were a point of contention for the Commission the first time this project came before them.

Hearing Opened to the Public

- Ken Gini, applicant, came forward to speak on the project. He gave a brief PowerPoint presentation.
- Commissioner Kuehne asked if the project fell within the EMAP area. Mr. Pirnejad stated that the guidelines within the EMAP project were guidelines that can be used throughout the City, but this project does not fall within the study area.
- Commissioner Kirsten asked about the use of the roll-up doors on the north side of the building and the time restrictions. Mr. Gini stated that this is not meant for ventilation, but more for deliveries. He also stated that the deliveries would only take ten to fifteen minutes. The area is not for customer or tenant parking.
- Chair Mattheis asked about the size of the doors on the north side. Mr. Gini stated that the doors are planned to be 8' high and wide. Chair Mattheis stated his concern again about the possible use of those doors. He would like to see the doors changed into man doors. Mr. Gini stated that he could do that.
- Chair Mattheis asked about the rooftop equipment screening. Mr. Gini stated that there will be a parapet acting as a screen.
- Phil Pennino, Lodi – Applicants representative, came forward to support the project. Mr. Pennino stated that the trash pickup will be before business hours and the applicant will be working with the architect to screen the rooftop equipment.
- Vice Chair Kiser asked about there being two 4' wide doors side by side and 7' high on the north instead of the roll-up doors. Mr. Pennino stated that the applicant would be fine with a condition to that affect.
- Commissioner Kirsten asked if there were any two-story residences to the north of the project. Mr. Pennino stated that there is an apartment building that is two-stories and if any equipment is placed on that end of the building it will be screened.

Public Portion of Hearing Closed

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Kiser, Kuehne second, approved the request of Kenneth J. Gini for a Variance to eliminate a required 5-foot building setback separating a commercial building from the north property line at 1325 and 1333 South Central Avenue and approval of the project site plan and architecture for the proposed buildings subject to the conditions listed on the attached resolution and additional conditions and findings as stated below.

*Continued*

- Randy Hatch stated the changes to the resolution should be:
  - Condition #29 addition of a sentence stating – “Pick up of garbage shall occur during non-business hours.”
  - Condition #5 addition of a sentence stating – “Such plans shall include a screening of rooftop mechanical equipment on the north elevation and the two roll up doors on the north elevation shall be replaced with two pair of four foot wide, seven foot tall doors.”
  - New finding #5 addition – “The Utility Easement that runs east/west through the property creates a no build situation which represents a unique hardship and warrants a granting of a Variance.”
  - The old finding #5 now finding #6 addition to second sentence – “...the unusual 10' x 130' lot and the no build easement east/west through the site are...unique creating...”

Vice Chair Kiser amended his 1<sup>st</sup>, Commissioner Kuehne his second to include the above changes to the resolution. The motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Kuehne, White, and Chair Mattheis  
Noes: Commissioners – None  
Absent: Commissioners – Cummins

- b) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Mattheis called for the public hearing to consider the Request for a Use Permit to allow a Type-20 off-sale beer and wine ABC License for Econo Gas located at 880 E. Victor Road. (Applicant: Sukh Singh; File# 07-U-08).

Chair Mattheis, Vice Chair Kiser, and Commissioners: Kuehne, Hennecke, and Kirsten all met with the applicant's attorney Mike Hakeem regarding this project.

Rick Caguiat gave a brief PowerPoint presentation based on the staff report.

Commissioner Kuehne asked about the number of ABC Licenses and where they are located. Mr. Caguiat handed out a copy of the PowerPoint slide showing the name of the applicants and their locations.

Mr. Caguiat resumed his PowerPoint presentation. Staff is recommending a denial of this application due to the over concentration within this census tract.

#### Hearing Opened to the Public

- Mike Hakeem, Brookside - Stockton, came forward to represent the applicant. Mr. Hakeem stated that Mr. Singh has been a responsible owner/operator of other stores in other locations specifically the Shell Station on the corner of Hutchins and Kettleman Lane. He has not had any other problems at his other businesses. Mr. Hakeem handed out some information regarding current ABC Licenses that are up for sale and Smart & Final is one of them. He also handed out letters of recommendations and possible additional condition should the Commission choose to approve this application.
- Anne Cerney, Vine Street, came forward to support this application. She feels that the extra tax revenue to the City of Lodi would be a good idea.

#### Public Portion of Hearing Closed

- Randy Hatch read an email opposing the project that was received from Mark Clary, Police Department, by staff and handed out to the Commission.

*Continued*

- Chair Mattheis stated his support of the project. He also feels that there is a “need and convenience” for the ABC License at this location. This is the last gas/ice stop before heading out East Hwy 12 towards Lockeford.
- Commissioner Kuehne stated his support for the project. He agrees with Chair Mattheis and feels there is a “need and convenience” with this application.
- Commissioner Kirsten stated his support for the project and would like to see Mr. Singh work diligently with the Police Department to alleviate any problems before they arise.
- Vice Chair Kiser stated his support and would like to see Mr. Singh try to purchase the ABC License that is for sale within this census tract.
- Commissioner Hennecke stated his support of the project and would also like to see Mr. Singh try to purchase one of the ABC Licenses that are for sale within this census tract.
- Chair Mattheis stated that there isn't a Resolution in the packet for approval of this project and wanted to know if the Commission needed to create a resolution or continue the item to a date certain so a revised resolution can be brought forward. Mr. Hatch stated that continuing to a date certain is the best option and staff will bring to the Commission a revised resolution.

Hearing Re-Opened to the Public

- Mr. Hakeem stated that the first meeting in August would not be convenient for him to attend. Mr. Hatch stated that continuing the item to August 22<sup>nd</sup> which is the second meeting in August would be more convenient for staff as well.

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kuehne, Kiser second, approved the motion to continue the Public Hearing for item 4b to August 22, 2007. The motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Kuehne, White, and Chair Mattheis  
Noes: Commissioners – None  
Absent: Commissioners – Cummins

Chair Mattheis called for a brief recess.

Chair Mattheis called the meeting back to order.

- c) Notice thereof having been published according to law, an affidavit of which publication is on file in the Community Development Department, Chair Mattheis called for the public hearing to consider the request for a Use Permit to allow on-sale beer and wine at Mariscos Y Tacos Los Lagos Restaurant located at 234 E. Lodi Avenue. (File No. 07-U-10); and Approval of the project site plan and architecture for a proposed conversion of a residence to a restaurant at 234 E. Lodi Avenue. (Applicant, Celso Santos; File No. 07-SP-06).

Immanuel Bereket gave a brief PowerPoint presentation based on the staff report. Staff is recommending approval of the project.

Vice Chair Kiser asked about who would be responsible for the cost of moving the utilities underground. Mr. Bereket stated that the applicant will be responsible.

Commissioner Kuehne asked about the parking stall sizes. Mr. Bereket stated that the end stalls need to be 10' wide and the rest can be 9' wide.

Chair Mattheis asked about the eating area in front and the landscaping around the edges. Mr. Bereket pointed out the areas of landscaping.

*Continued*

Chair Mattheis stated that he didn't think that a large vehicle would be able to make the turn into the parking space closest to the building. Randy Hatch stated that the applicant is over by one space and this space could be used for employee parking eliminating the need for pulling in and out multiple times during the day.

Chair Mattheis asked about the screening of the equipment that will be on the roof. Mr. Hatch stated that that information has not been made available to staff as of yet.

Hearing Opened to the Public

- Ishmael Solario, designer of the project, came forward to support the project. Mr. Solario pointed out the positive aspects of the project. Using the PowerPoint slides he pointed out a few of the items of concern (HVAC, landscaping, and parking space turning radius). Mr. Solario stated that the square footage in the staff report is incorrect, it should be 1498sf.
- Chair Mattheis stated that he would like to see the hood in the kitchen moved to another spot so that it is screened completely. Commissioner Hennecke had the same concern. Mr. Solario stated that he is acceptable to a condition to make sure that it gets screened.
- Commissioner Kuehne wanted clarification on the square footage discrepancy. Mr. Solario confirmed that the actual square footage is 1498.
- Vice Chair Kiser wanted to know where the grease trap would be placed. Mr. Solario pointed to the south west area of the property.

Public Portion of Hearing Closed

- Chair Mattheis stated that he was in support of the use and the improvement to the area, but he has some issues with the site plan and architectural aspects. He would like to see more work done on the design and brought back to the Commission.
- Commissioner Kuehne stated that he likes the idea and would also like to see the site plan and architectural portion brought back to the Commission.

Public Portion of Hearing Re-Closed

MOTION / VOTE:

The Planning Commission, on motion of Vice Chair Kiser, Kuehne second, approved the request for a Use Permit to allow on-sale beer and wine at Mariscos Y Tacos Los Lagos Restaurant located at 234 E. Lodi Avenue subject to the attached resolution with the changes as stated below:

Randy Hatch stated the changes:

- Add a sentence to Condition #7 – “The application shall be subject to a 6 month and 1 year review by Staff and only brought back to the Commission if there are problems.”

Vice Chair Kiser amended his 1<sup>st</sup>, Kuehne his 2<sup>nd</sup> to include the above change. The Motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Kuehne, White, and Chair Mattheis  
Noes: Commissioners – None  
Absent: Commissioners – Cummins

Hearing Re-Opened to the Public

- Mr. Solario stated that he would like to see the application expedited.

*Continued*

MOTION / VOTE:

The Planning Commission, on motion of Commissioner Kuehne, Kiser second, continued the Site Plan and Architecture review portion of item 4c for a proposed conversion of a residence to a restaurant at 234 E. Lodi Avenue to a date certain of September 12, 2007. The motion carried by the following vote:

Ayes: Commissioners – Hennecke, Kirsten, Kiser, Kuehne, White, and Chair Mattheis

Noes: Commissioners – None

Absent: Commissioners – Cummins

5. PLANNING MATTERS

None

6. ANNOUNCEMENTS AND CORRESPONDENCE

Mr. Hatch stated that the Flag City Design Guidelines document being approved by the County will be delivered to the Planning Commission this week and it will then be brought before the Planning Commission for recommendation for endorsement at the next meeting.

Mr. Hatch also mentioned the Planning Class for the Planning Commission being offered by APA in Merced.

Mr. Hatch answered Commissioner Kuehne's question regarding the General Plan Update by stating that the next item regarding the General Plan Update will be receiving and then reviewing the Working Papers.

Chair Mattheis would like to have the General Plan Update status report added to the agenda for future meetings. He would also like to have some regular updates in the form of a schedule or brief report to keep the Commission informed. Mr. Hatch stated that Staff will make sure there are regular updates given to the Commission.

7. ACTIONS OF THE CITY COUNCIL

Mr. Hatch stated that:

- The Mobile Food Venders Ordinance went before Council and has been approved.
- Council has directed the City Manager to work with Mr. Munson to establish a downtown hotel.

8. ACTIONS OF THE SITE PLAN AND ARCHITECTURAL REVIEW COMMITTEE

Vice Chair Kiser stated that the Committee met last week and approved the plans for the Blue Shield Project.

9. UPDATE ON COMMUNITY SEPARATOR/GREENBELT TASK FORCE

None

10. ART IN PUBLIC PLACES

Commissioner Kuehne stated that there was a meeting and a piece of art (statue) has been approved to be placed somewhere in the downtown. Another Wall Dog project has been approved, but the location has not. The next meeting will be August 22<sup>nd</sup>.

11. COMMENTS BY THE PUBLIC

Anne Cerney, West Vine Sreet, came forward to state that the first Ag mitigation land was brought into the City to be held in trust at the last City Council Meeting. The Flag City Design Guidelines are being brought to the Planning Commission and what are the legal ramifications of that? Ms. Cerney asked for a copy of the Guidelines. Mr. Hatch stated that staff felt it was a positive move to require a City staff

*Continued*

review of projects in the Flag City area. He also went over some of the background information that has led to this point. Ms. Cerney asked for some clarifications. Mr. Hatch stated that yes the County may make some modifications, as the City's Planning Commission could make some modification requests. All the modifications will then be brought back for approval; it is at this time that the City Council will choose to accept the guidelines or not. The County will be responsible for enforcing the conditions within the Guidelines. Ms. Cerney stated her concerns over the contract with an entity outside of the City for disposal of waste water and the impact it will have on the Citizens of Lodi.

12. COMMENTS BY STAFF AND COMMISSIONERS

None

13. ADJOURNMENT

There being no further business to come before the Planning Commission, the meeting was adjourned at 10:03 p.m.

ATTEST:

Randy Hatch  
Community Development Director



## **PREVIOUSLY APPROVED**

### **RESOLUTION NO. P.C. 07-10**

#### **A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF KENNETH J. GINI FOR A VARIANCE TO ELIMINATE A 5-FOOT SETBACK REQUIRED TO SEPARATE COMMERCIAL USES FROM RESIDENTIALLY ZONED PROPERTIES AND APPROVAL OF THE PROJECT SITE PLAN AND ARCHITECTURE AT 1325 AND 1333 SOUTH CENTRAL AVENUE. (PROJECT FILE 07-A- 03 AND 07-SP-02)**

**WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Variance in accordance with the Government Code; and

**WHEREAS**, the properties are located at 1325 and 1333 South Central Avenue (APN: 047-270-11 and 047-270-12) respectively; and

**WHEREAS**, the project proponent is Mr. Kenneth J. Gini, 1325 S. Central Ave., Lodi, CA 95240; and

**WHEREAS**, the property owner is Kenneth Gini, 1325 S. Central Ave, Lodi, CA, 95241; and

**WHEREAS**, the properties have a General Plan designation of GC, General Commercial and are zoned C-2, General Commercial; and

**WHEREAS**, the Community Development Department prepared an Initial Study for the project, consistent with the California Environmental Quality Act (CEQA), as amended that showed no significant impact to the environment; and

**WHEREAS**, the Initial Study and Negative Declaration (ND 06-03) were circulated for a 30-day period between October 17, 2006 and November 18, 2006 and no significant comments were received from the public; and

**WHEREAS**, all legal prerequisites to the approval of this request have occurred.

Based upon the evidence in the staff report and project file, the Planning Commission of the City of Lodi makes the following findings:

1. The proposed use will be consistent with all applicable goals, policies and standards of the City's adopted General Plan Policy Document.
2. The proposed use is consistent with the Zoning designation.
3. The proposed use will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood or be detrimental or injurious to the health, safety, peace or general welfare of the City.
4. A variance maybe granted if the City finds that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The properties in the subject area are unique in both their configuration and size. The property to the north of the subject parcels is particularly unique. It is only 10 feet wide and 130 feet deep and serves as the sole access for several parcels to the north and west that do not front on a public street. This strip of property, along with a similar strip of driveway on the property to the north is unbuildable and must remain as a driveway to serve the surrounding properties. The combined 20 foot wide permanent driveway constitutes a special circumstance. The driveway also creates a 20 foot buffer from residential buildings to the north. Granting the variance will not create a special privilege as this situation is unique to this location.
5. The utility easement that runs east-west thru the property creates a no-build situation which represents a unique hardship and warrants a granting of the variance.

## PREVIOUSLY APPROVED

6. The variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. Approval of the requested variance will not affect the existing land use pattern in the neighborhood and the unusual 10' x 130' lot and the no build easement east-west thru the site are unique creating a site specific hardship which is not granting a special privilege but rather correcting a unique hardship.
7. The variance is not detrimental to the public welfare as a 20' separation will be provided between the commercial use and residential. Further, the provision of an attractive block wall provides separation and buffering and is an attractive solution for the area.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Variance 07-A-03 and SPARC 07-SP-02 are hereby approved, subject to the following conditions:

### Community Development Department, Planning:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense or the action or proceedings.
2. The applicant shall submit a landscaping and irrigation system plan to the Community Development Department for review and approval.
3. The proposed surface parking on the new parcels shall be subject to setback and all other zoning code requirements.
4. The applicant shall submit the location, design, and material of the proposed buildings to the Community Development Department for review and approval prior to issuance of a Building Permit.
5. The elevation, materials and colors for the proposed buildings shall be consistent with the plans submitted to the Community Development Department. Such plans shall include screening of roof-top mechanical equipment on the north elevation and the two rollup doors on the north elevation shall be replaced with two pair of 4' wide, 7' tall man-doors.

### Community Development Department, Building:

6. A building permit will be required for any new construction and the appropriate submittal documents prepared by a registered engineer or licensed architect shall be submitted to the Community Development Department for complete review and approval.
7. Exterior wall less than 5 feet from the property line shall be 4-hr Non-Combustible fire resistive construction. Openings shall not be permitted less than 5 feet and protected less than 20 feet.
8. The construction site plan shall indicate the following:
  - a. Public sidewalk/public way to and between all required building entrances/exits.
  - b. Disabled access parking to building entrances.
9. Exterior landings and walkways serving building entrances/exits shall not be located within the driveway area/vehicular traffic area.
10. Walks and sideways shall be a minimum of 49 inches in width.
11. The minimum length of landing in the direction of door swing shall be 60 inches and the length opposite the direction of door swing shall be 48 inches.
12. If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas, the

## PREVIOUSLY APPROVED

boundary between the areas shall be defined by continuous detectable warning which is 36 inches wide.

13. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.
14. Roof drainage water shall not flow over walkways/public property.
15. Roof drains where concealed within the construction of the building shall be installed in accordance with Plumbing Code.

### Fire Department:

16. On-site fire protection as required by the Fire Department.

### Public Works Department, Engineering:

17. A lot merger is required for this project.
18. There is an existing 2-inch public water main extending westerly from the public water main in Central Avenue along the south property line of the parcel at 1325 S. Central Avenue (APN 047-27-11), through the central portion of the parcels at 331 and 335 E. Kettleman Lane (APN 047-27-14 and APN 047-27-15) and continuing westerly through adjacent parcels to the public water main in Washington Street. The water main needs to be shown on the site plan.
19. Dedication of a public utility easement is required to accommodate the existing public water and wastewater mains on the project site. The easement shall be a minimum width of 10 feet or of sufficient width to provide a clear distance of 3 feet from the outside walls of the water and wastewater mains, whichever is greater. The owner's engineer shall provide the easement legal description to City staff for review and approval. The easement deed will be prepared by City staff.
20. There shall be a minimum clear horizontal distance of 3 feet from the building footings to the outside wall of the public water and/or wastewater mains. Submit a dimensioned drawing showing the location of the public mains in relation to the proposed building footings.
21. Trees may not be planted over the public water and wastewater mains. Tree spacing from public mains shall be a minimum of 5 feet on center.
22. Dedication of 5 feet of street right-of-way on Kettleman Lane. Kettleman Lane has been designated as a 6-lane facility and additional right-of-way is necessary to accommodate the future street widening.
23. All property dedicated to the City of Lodi shall be free and clear of all liens and encumbrances and without cost to the City of Lodi and free and clear of environmental hazards, hazardous materials or hazardous waste. Developer shall prepare and submit a hazardous materials report and shall indemnify the City against any and all hazardous materials and/or ground water contamination for all property/easements dedicated to the City.
24. The proposed driveway on Kettleman Lane shall conform to Caltrans standards. A Caltrans encroachment permit is required for all work in the Kettleman Lane (Highway 12) right-of-way.
25. The proposed driveway on Central Avenue shall be a special commercial driveway conforming to Standard Plan 111.
26. An encroachment permit issued by the Public Works Department is required for all work in the public right-of-way on Central Avenue.
27. Storm drainage shall be collected on site and discharged to the existing 14-inch public storm drain line in Central Avenue. Project design and construction shall be in compliance with applicable terms and conditions of the City's Stormwater Management Plan (SMP) approved by

## PREVIOUSLY APPROVED

the City Council on March 5, 2003, and shall employ the Best Management Practices (BMPs) identified in the SMP.

- a. The City will be adopting Development Design Standards for new projects in conformance with the conditions of the City's Stormwater Discharge Permit. Building permits issued after the date of adoption of these Standards are required to comply with the requirements of the Standards.
  - b. State-mandated construction site inspections to assure compliance with the City of Lodi Storm Discharge Permit are required. The fee for the inspections is the responsibility of the developer and must be paid prior to map commencement of construction operations.
28. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). City of Lodi Standard Plans are in the process of being revised and it should not be assumed that current standard plans are fully ADA compliant. Project compliance with ADA standards is the developer's responsibility.
29. The trash enclosure should be wide enough to provide separate containers for recyclable materials and other solid waste. Pick up of garbage shall occur during non-business hours.
30. Payment of the following:
- a. Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
  - b. Development Impact Mitigation Fees per the Public Works Fee and Service Charge Schedule at the time of project acceptance.
  - c. Wastewater capacity impact fee at building permit issuance.
  - d. County Facilities Fees at the time of building permit issuance.
  - e. Regional Transportation Impact Fee (RTIF) at the time of building permit issuance.
  - f. Stormwater compliance inspection fee prior to building permit issuance or commencement of construction operations, whichever occurs first.

The above fees are subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above.

### Electric Utilities Department:

31. Applicant shall provide all necessary Public Utility Easements, payment of Electric Utility Department charges, and installation of necessary equipment/infrastructure to provide electrical service to the properties in accordance with the Electric Department's rules and regulations.

Dated: July 25, 2007

I hereby certify that Resolution No. 07-10 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 25, 2007, by the following vote:

AYES:	Commissioners:	Hennecke, Kirsten Kiser, White, Kuehne, and Chair Mattheis
NOES:	Commissioners:	
ABSENT:	Commissioners:	Cummins
ABSTAIN:	Commissioners:	

ATTEST: \_\_\_\_\_  
Secretary, Planning Commission

**RESOLUTION NO. P.C. 08-17**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LODI APPROVING THE REQUEST OF KENNETH J. GINI FOR AMENDING CONDITIONS OF APPROVAL OF THE PROJECT SITE PLAN AND ARCHITECTURE AT 1325 AND 1333 SOUTH CENTRAL AVENUE. (PROJECT FILE 07-A- 03 AND 07-SP-02)**

**WHEREAS**, the Planning Commission of the City of Lodi has heretofore held a duly noticed public hearing, as required by law, on the requested Variance in accordance with the Government Code; and

**WHEREAS**, the properties are located at 1325 and 1333 South Central Avenue (APN: 047-270-11 and 047-270-12) respectively; and

**WHEREAS**, the project proponent is Mr. Kenneth J. Gini, 335 East Kettleman Lane, Lodi, CA 95240; and

**WHEREAS**, the property owner is Kenneth Gini, 335 East Kettleman Lane, Lodi, CA, 95241; and

**WHEREAS**, the properties have a General Plan designation of GC, General Commercial and are zoned C-2, General Commercial; and

**WHEREAS**, the Community Development Department prepared an Initial Study for the project, consistent with the California Environmental Quality Act (CEQA), as amended that showed no significant impact to the environment; and

**WHEREAS**, the Initial Study and Negative Declaration (ND 06-03) were circulated for a 30-day period between October 17, 2006 and November 18, 2006 and no significant comments were received from the public; and

**WHEREAS**, all legal prerequisites to the approval of this request have occurred.

Based upon the evidence in the staff report and project file, the Planning Commission of the City of Lodi makes the following findings:

1. The proposed use will be consistent with all applicable goals, policies and standards of the City's adopted General Plan Policy Document.
2. The proposed use is consistent with the Zoning designation.
3. The proposed use will not be detrimental to the health, safety or general welfare of persons residing or working in the neighborhood or be detrimental or injurious to the health, safety, peace or general welfare of the City.
4. A variance maybe granted if the City finds that because of special circumstances applicable to the property, including size, shape, topography, location or surroundings, the strict application of the zoning ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification. The properties in the subject area are unique in both their configuration and size. The property to the north of the subject parcels is particularly unique. It is only 10 feet wide and 130 feet deep and serves as the sole access for several parcels to the north and west that do not front on a public street. This strip of property, along with a similar strip of driveway on the property to the north is unbuildable and must remain as a driveway to serve the surrounding properties. The combined 20 foot wide permanent driveway constitutes a special circumstance. The driveway also creates a 20 foot buffer from residential buildings to the north. Granting the variance will not create a special privilege as this situation is unique to this location.
5. The utility easement that runs east-west thru the property creates a no-build situation which represents a unique hardship and warrants a granting of the variance.

6. The variance will not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is situated. Approval of the requested variance will not affect the existing land use pattern in the neighborhood and the unusual 10' x 130' lot and the no build easement east-west thru the site are unique creating a site specific hardship which is not granting a special privilege but rather correcting a unique hardship.
7. The variance is not detrimental to the public welfare as a 20' separation will be provided between the commercial use and residential. Further, the provision of an attractive block wall provides separation and buffering and is an attractive solution for the area.

**NOW, THEREFORE, BE IT DETERMINED AND RESOLVED** by the Planning Commission of the City of Lodi that Variance 07-A-03 and SPARC 07-SP-02 are hereby approved, subject to the following conditions:

Community Development Department, Planning:

1. The developer will defend, indemnify, and hold the City, its agents, officers, and employees harmless of any claim, action, or proceeding to attack, set aside, void, or annul this permit, so long as the City promptly notifies the developer of any claim, action, or proceedings, and the City cooperates fully in defense or the action or proceedings.
2. The applicant shall submit a landscaping and irrigation system plan to the Community Development Department for review and approval.
3. The proposed surface parking on the new parcels shall be subject to setback and all other zoning code requirements.
4. The applicant shall submit the location, design, and material of the proposed buildings to the Community Development Department for review and approval prior to issuance of a Building Permit.
5. The elevation, materials and colors for the proposed buildings shall be consistent with the plans submitted to the Community Development Department. Such plans shall include screening of roof-top mechanical equipment on the north elevation and there shall be no more than two roll-up doors no greater than 8' wide, 8' tall. The said roll-up doors shall be painted in color and pattern to match the masonry walls. The said doors shall not be used for purposes of vehicular access or exist. The said doors may be used for hand deliveries during business hours, otherwise shall remain closed.

Community Development Department, Building:

6. A building permit will be required for any new construction and the appropriate submittal documents prepared by a registered engineer or licensed architect shall be submitted to the Community Development Department for complete review and approval.
7. Exterior wall less than 5 feet from the property line shall be 4-hr Non-Combustible fire resistive construction. Openings shall not be permitted less than 5 feet and protected less than 20 feet.
8. The construction site plan shall indicate the following:
  - a. Public sidewalk/public way to and between all required building entrances/exits.
  - b. Disabled access parking to building entrances.
9. Exterior landings and walkways serving building entrances/exits shall not be located within the driveway area/vehicular traffic area.
10. Walks and sidewalks shall be a minimum of 49 inches in width.
11. The minimum length of landing in the direction of door swing shall be 60 inches and the length opposite the direction of door swing shall be 48 inches.

12. If a walk crosses or adjoins a vehicular way, and the walking surfaces are not separated by curbs, railings or other elements between the pedestrian areas and vehicular areas, the boundary between the areas shall be defined by continuous detectable warning which is 36 inches wide.
13. Protruding objects shall not reduce the clear width of an accessible route or maneuvering space.
14. Roof drainage water shall not flow over walkways/public property.
15. Roof drains where concealed within the construction of the building shall be installed in accordance with Plumbing Code.

Fire Department:

16. On-site fire protection as required by the Fire Department.

Public Works Department, Engineering:

17. A lot merger is required for this project.
18. There is an existing 2-inch public water main extending westerly from the public water main in Central Avenue along the south property line of the parcel at 1325 S. Central Avenue (APN 047-27-11), through the central portion of the parcels at 331 and 335 E. Kettleman Lane (APN 047-27-14 and APN 047-27-15) and continuing westerly through adjacent parcels to the public water main in Washington Street. The water main needs to be shown on the site plan.
19. Dedication of a public utility easement is required to accommodate the existing public water and wastewater mains on the project site. The easement shall be a minimum width of 10 feet or of sufficient width to provide a clear distance of 3 feet from the outside walls of the water and wastewater mains, whichever is greater. The owner's engineer shall provide the easement legal description to City staff for review and approval. The easement deed will be prepared by City staff.
20. There shall be a minimum clear horizontal distance of 3 feet from the building footings to the outside wall of the public water and/or wastewater mains. Submit a dimensioned drawing showing the location of the public mains in relation to the proposed building footings.
21. Trees may not be planted over the public water and wastewater mains. Tree spacing from public mains shall be a minimum of 5 feet on center.
22. Dedication of 5 feet of street right-of-way on Kettleman Lane. Kettleman Lane has been designated as a 6-lane facility and additional right-of-way is necessary to accommodate the future street widening.
23. All property dedicated to the City of Lodi shall be free and clear of all liens and encumbrances and without cost to the City of Lodi and free and clear of environmental hazards, hazardous materials or hazardous waste. Developer shall prepare and submit a hazardous materials report and shall indemnify the City against any and all hazardous materials and/or ground water contamination for all property/easements dedicated to the City.
24. The proposed driveway on Kettleman Lane shall conform to Caltrans standards. A Caltrans encroachment permit is required for all work in the Kettleman Lane (Highway 12) right-of-way.
25. The proposed driveway on Central Avenue shall be a special commercial driveway conforming to Standard Plan 111.
26. An encroachment permit issued by the Public Works Department is required for all work in the public right-of-way on Central Avenue.
27. Storm drainage shall be collected on site and discharged to the existing 14-inch public storm drain line in Central Avenue. Project design and construction shall be in compliance with

applicable terms and conditions of the City's Stormwater Management Plan (SMP) approved by the City Council on March 5, 2003, and shall employ the Best Management Practices (BMPs) identified in the SMP.

- a. The City will be adopting Development Design Standards for new projects in conformance with the conditions of the City's Stormwater Discharge Permit. Building permits issued after the date of adoption of these Standards are required to comply with the requirements of the Standards.
  - b. State-mandated construction site inspections to assure compliance with the City of Lodi Storm Discharge Permit are required. The fee for the inspections is the responsibility of the developer and must be paid prior to map commencement of construction operations.
28. All project design and construction shall be in compliance with the Americans with Disabilities Act (ADA). City of Lodi Standard Plans are in the process of being revised and it should not be assumed that current standard plans are fully ADA compliant. Project compliance with ADA standards is the developer's responsibility.
29. The trash enclosure should be wide enough to provide separate containers for recyclable materials and other solid waste. Pick up of garbage shall occur during non-business hours.
30. Payment of the following:
- a. Filing and processing fees and charges for services performed by City forces per the Public Works Fee and Service Charge Schedule.
  - b. Development Impact Mitigation Fees per the Public Works Fee and Service Charge Schedule at the time of project acceptance.
  - c. Wastewater capacity impact fee at building permit issuance.
  - d. County Facilities Fees at the time of building permit issuance.
  - e. Regional Transportation Impact Fee (RTIF) at the time of building permit issuance.
  - f. Stormwater compliance inspection fee prior to building permit issuance or commencement of construction operations, whichever occurs first.

The above fees are subject to periodic adjustment as provided by the implementing ordinance/resolution. The fee charged will be that in effect at the time of collection indicated above.

Electric Utilities Department:

31. Applicant shall provide all necessary Public Utility Easements, payment of Electric Utility Department charges, and installation of necessary equipment/infrastructure to provide electrical service to the properties in accordance with the Electric Department's rules and regulations.

Dated: June 09, 2008

I hereby certify that Resolution No. 08-17 was passed and adopted by the Planning Commission of the City of Lodi at a regular meeting held on July 09, 2008, by the following vote:

AYES:	Commissioners:
NOES:	Commissioners:
ABSENT:	Commissioners:
ABSTAIN:	Commissioners:

ATTEST: \_\_\_\_\_  
Secretary, Planning Commission



# Item 4a.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** July 9, 2008

**INFORMATIONAL ITEM:** Update of the Vineyard Christian Middle School Use Permit granted in 2006.

**LOCATION:** 2301 West Lodi Avenue.

**SUMMARY**

This is an informational item updating the Planning Commission on the status of the Vineyard Christian Middle School Use Permit and does not require any formal Planning Commission action.

In response to discussions with the Planning Commission and in an effort to improve the functions in the Planning Department staff is revisiting past approvals of development applications. The intent is to revisit controversial or well attending planning applications to determine if the conditions of approval and subsequent operations of the use have meet the expectations of staff and the Commission. This report is advisory only and requires no action. Rather it provides staff and Commission an opportunity to look back and determine if past approvals and their associated conditions of approval resulted in a better operation. Staff welcomes suggestions and public input to these operations and approvals.

**BACKGROUND**

On February 8, 2006, Vineyard Christian Middle School (VCMS) appeared before the Lodi Planning Commission to request a Use Permit to locate a private middle school on the property of Lodi Ave. Baptist Church, 2301 West Lodi Ave. The school was relocating from their previous location in Woodbridge. The school is a 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> grade Christian middle school with an enrollment of approximately 84 students and 5 teachers and staff. The hours of operation were from 8:30 am to 3:10 pm.

The school was designed using modular classroom buildings that were to be located on an unused portion of the church property, north of the church buildings. The church and the school would share the existing church parking lot. There are 5 classroom buildings arranged around a common courtyard area. There is also a small modular restroom building adjacent to the classrooms to serve the students and faculty. The street frontage adjacent to the school has been fenced and landscaped.

During the Planning Commission hearing, there were numerous members of the public who spoke both for and against the school's application. The people who spoke in opposition to the project were primarily residents of the neighborhood immediately east of the school site. They were particularly concerned about the added traffic on Allen Drive and surrounding streets; the increase in activity, noise and litter as a result of the school; and aesthetic impacts that would result from the placement of modular classrooms on the property. Following the public hearing, the Planning Commission conditionally granted the Use Permit. There was an extensive list of conditions placed on the Use Permit, many to try and address the issues that were raised during the public hearing. One of the conditions was that the project be reviewed by the Site Plan and Architectural Review Committee.

Several of the residents in the neighborhood appealed the granting of the Use Permit based on their concerns regarding the project. The City Council held an appeal hearing and based on the testimony presented, denied the appeal and upheld the decision of the Planning Commission. The applicant's then proceeded to the next step which was a review by the Site Plan and Architectural Review Committee (SPARC). At the SPARC meeting, the Committee reviewed a slightly revised site plan from the plan approved by the Planning Commission. The changes included the following:

1. The classroom buildings were moved approximately 60-feet to the south, further onto the paved parking area. The shift in the building location eliminated the use of the northern driveway as an entrance to the school.
2. The classroom buildings were arranged in a slightly different configuration.
3. The revised plan showed a sixth building, a modular restroom building that replaced a small church building that was to be removed from the property.
4. The plan showed a wrought-iron fence along Allen Drive with landscaping between the fence and the City sidewalk.

SPARC asked staff whether the requested changes would present a problem and it was staff's opinion that the changes were relatively modest and would not substantially affect the way the school functioned or its relationship to the surrounding neighborhood. The one exception was the fencing along Allen Drive. The Committee felt that the wrought-iron fencing may not be the best solution and they instructed the applicant to work with the neighbors to develop a fence plan design that was acceptable to both parties. The fence plan would then be returned to SPARC for final approval. VCMS agreed to this requirement.

Some of the neighboring residents felt that the changes approved by SPARC were significant and were in conflict with the conditions placed on the project by the Planning Commission. They appealed the SPARC approval of the project to the Planning Commission. The P.C. held a public hearing on the appeal and heard from a number of speakers both for and against the appeal. They also heard from various city staff present to answer questions on project related issues such as traffic and building construction. Following a lengthy hearing, the P.C. voted to deny the appeal with the understanding that the applicant would meet certain conditions that would be monitored by City staff.

### **Current status**

- VCMS has been in operation for one school year and everything seems to be operating as planned. The City is not aware of any particular problems or issues resulting from the operation of the school. VCMS seems to be responsive in dealing with any issues that may arise and the school, the parents and the students appear to have made a conscientious effort to be good neighbors.
- The school appears to have meet all conditions placed on the project by the City. These include the following: traffic and parking improvements both on and off-site; improvements to the exterior of the modular buildings; fencing and new landscaping along Allen Drive; and monitoring of student drop-off and pick-up activities.
- Significant traffic issues that were anticipated by some people have not materialized. Traffic seems to be functioning at an acceptable level with no reported traffic delays or hazards.
- The new landscaping is starting to grow and enhance the appearance of the property.

### **Points for Consideration**

- Prior to undertaking a project of this nature, some neighborhood outreach is important and could reduce some fears and misconceptions that neighbors may have.
- Coordination of project conditions and requirements between various City departments and review boards is critical to assure that conditions do not conflict with one another or that conditions made by one party are not changed or altered by another party.
- One outcome of this particular project was a change in the way projects may be reviewed. The Planning Commission is recommending that the method of Site Plan and Architectural Review be modified. Instead of an application going through the Planning Commission for a discretionary or land use approval and then going to SPARC for a design approval, applications will be reviewed by a single board. If an application needs a discretionary approval from the Planning commission, the PC will also conduct the design review. If an application only requires design review, the project will be reviewed by SPARC. This change in procedure will hopefully avoid future problems or misunderstandings between different review boards.

Respectfully Submitted,

Concur,

David Morimoto  
Senior Planner

Peter Pirnejad  
Planning Manager

Item 4b.

**CITY OF LODI**  
**PLANNING COMMISSION**  
**Staff Report**

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**MEETING DATE:** July 9, 2008

**INFORMATIONAL ITEM:** Update of the Wine Country Card Room Use Permit granted in 2007.

**LOCATION:** 1800 South Cherokee Lane.

**SUMMARY**

This is an informational item updating the Planning Commission on the status of the Wine Country Card Room Use Permit and does not require any formal Planning Commission action.

In response to discussions with the Planning Commission and in an effort to improve the functions in the Planning Department staff is revisiting past approvals of development applications. The intent is to revisit controversial or well attending planning applications to determine if the conditions of approval and subsequent operations of the use have meet the expectations of staff and the Commission. This report is advisory only and requires no action. Rather it provides staff and Commission an opportunity to look back and determine if past approvals and their associated conditions of approval resulted in a better operation. Staff welcomes suggestions and public input to these operations and approvals.

**BACKGROUND**

The Axtion Jaxson Card room formerly located at 29 North Sacramento Street proposed to transfer their business to the old Gary's Uptown Restaurant and Lounge facility at 1800 S. Cherokee Lane. The card room license is the only one in the City and it has had different owners over the years. The current principal owner of Axtion Jaxson Card room, Jack Morgan obtained his card room license permit on April 23, 2003. At the time he obtained the original card room license from the California Department of Justice Division of Gambling Control, the City of Lodi's Municipal Code did not require a Use Permit for a card room license. As a result of the change of location, the applicant was required to apply for said use permit. The applicant is currently in the process of transferring an existing Type-47 ABC License (On Sale Beer & Wine – Eating Place) on the property to the new business. The new facility will enable the applicant to include a full service restaurant and bar with the card room business.

The applicant has operated an existing card room at 29 N. Sacramento Street and planned to relocate his business to an existing commercial building at 1800 S. Cherokee Lane. The applicant wanted to relocate his business to a larger building to include a full service restaurant and bar to compliment the card room. The commercial building would be comprised of two areas. The card room would be located on the north side of the building and the restaurant will be located on the southern half of the building (see attached floor plan). The card room would be separated from the restaurant and bar by a sliding wall that will remain closed at all times during card operation. In addition, the applicants are installing a 42 inch high wall around the card tables to provide additional separation of the card room from the restaurant and bar. The applicants would install a double glass door for the main entrance to the card room on the north side of the building. Customers are greeted and screened by security personnel upon entering the card room. The business hours for the card room restaurant and bar will be seven days a week, Monday through Friday, from 10:00 a.m. to 2:00 a.m., and Saturday and Sunday from 10:00 a.m. until 4:00 a.m., as required by Section 5.12.140 of the Lodi Municipal Code. In addition, the bar will stop selling alcoholic beverages at 2:00 a.m. to comply with State regulations. In accordance with Section 17.39.025 of the Lodi Municipal Code, a card room

business is permitted in the C-2 General Commercial district by securing a Use Permit from the Planning Commission.

On February 14, 2007, Wine Country Casino and Restaurant appeared before the Planning Commission to request a Use Permit to allow the operation of a card room at 1800 South Cherokee Lane. The Planning Commission had a number of questions about the operation including the following:

1. The Commission wanted to know about the type of alcohol sales. Staff stated that they would have a general on-sale liquor license that would allow distilled spirits, as well as beer and wine to be served. Alcohol will be served in the card room, although players would not be served if they were intoxicated. Alcohol would also be served in the restaurant/bar.
2. Parking. The PC wanted to know if parking would be adequate. Staff stated that based on the City's requirements, the applicant would need 34 parking spaces. The parking lot currently has 84 parking spaces. It was also noted that street parking was available along Cherokee Lane although this was not counted towards the required parking.
3. There questions about security for the business. Staff noted that the business would need to secure a card room permit from the Police Department. The Police Department had reviewed the proposed business plan and had a number of suggestions and requirements. They did not have any objection to the proposal as long as their requirements were met. The applicant stated that they would have on-site security guards, numerous security cameras and would add additional outdoor lighting. They would also screen all patrons entering the card room.
4. There was a question regarding the timing of the opening of the card room and the restaurant. The applicant stated that the card room and the restaurant would be open at the same time.
5. The PC asked about the types of games that would be played. The City Attorney stated that the City Council recently amended the Municipal Code to allow Texas Hold'em, in addition to the existing list of card games permitted to be played in card rooms.

There were some members of the public who spoke at the hearing to express their concern about the proposed card room. Generally they felt that a card room was not an appropriate use for that location. They stated that this location was a gateway to the City and a card room would send the wrong message to visitors to Lodi. They also felt that it was too close to residential properties across Cherokee Lane. They were concerned that the card room would attract the wrong kind of people and would be a detriment to the community.

## **CURRENT STATUS**

The Use Permit for the card room was approved and the business has been open for approximately one year. The City has not experienced any significant problems that have resulted from the operation of the card room. Concerns about traffic and criminal activity have not resulted from the operation of the card room. Overall the card room and restaurant has operated without problem and has not had any negative impact on the community or the neighborhood that has been brought to the attention of the Planning Department.

The previous location of the card room on Sacramento Street has been closed down and is no longer a card room. A new business at this location could not be a card room.

## POINTS FOR CONSIDERATION

The key to the successful operation of this type of business includes the following:

- The right location. The applicant was able to find an existing building that had a site-down restaurant with a bar and a banquet room that could be converted into a card room. The property had an existing liquor license that the applicant was able to purchase and utilize. The building was located in a C-2, general commercial zone that permitted this type of use and the location was relatively isolated from other uses that might be affected by night time activities. The property had adequate on-site parking and was separated from the nearest residential uses by a four-lane thorough fare with a center landscaped median.
- Qualified management. The owners/operators of the card room appear to have a strong business back round both in the card room business and in other business fields. They were able to use their experience to identify what steps they needed to take to create a successful, safe and well operated business. The owners also appear to have sufficient financial resources to be able to make the necessary modifications to the building, to install the necessary security equipment and to hire qualified employees to staff the operation. This has resulted in what appears to be a successful business.
- Crafting the right conditions for approval. The police department was very helpful in providing a list of conditions they felt were necessary to make the card room a safe and secure environment for both the card room patrons and the surrounding community. Additionally the Planning Commission and other City departments developed conditions for the project that helped establish the framework for a successful operation. The applicants also appear to have made a real effort to comply with all of the requirements put forth by the City.

Overall the City is pleased with the way Wine Country Card Room has turned out and the operation has not created any of the negative impacts that some people felt would result from a card room business.

Respectfully Submitted,

Concur,

David Morimoto  
Senior Planner

Peter Pirnejad  
Planning Manager



Item 4c.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** July 9, 2008

**REQUEST:** Appoint two representatives from the Planning Commission to attend Development Code Update workshop style meetings.

**APPLICANT:** City of Lodi  
Community Development Department  
221 West Pine Street  
Lodi, CA 95241-1910

**RECOMMENDATION:**

Appoint two representatives from the Planning Commission to attend Development Code Update workshop style meetings.

**SUMMARY**

In response to some interest by the public to review some of the Development Code items in a workshop format staff is inviting any interested Planning Commissioners to attend. The purpose of the Planning Commissioners attendance would be to participate and provide feedback as it relates to the specific item at hand. See attached Staff Report from the April 23, 2008 Planning Commission Meeting for a summary of Development Code Update items.

Respectfully Submitted,

Peter Pirnejad  
Planning Manager

PP/kjc

**Attachments:**

1. April 23, 2008 Planning Commission Staff report regarding the Development Code Update.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** April 23, 2008

**REQUEST:** The Community Development staff is requesting direction from the Planning Commission on how to proceed on a variety of regulations that could be considered for inclusion in the new Development Code.

**APPLICANT:** City of Lodi  
Community Development Department  
221 West Pine Street  
Lodi, CA 95241-1910

**RECOMMENDATION:**

Staff recommends that the Planning Commission review the partial list of possible regulatory topics that could be added to the new Development Code and determine which of these topics they would like City staff to pursue in greater detail and to give staff some direction on how to prioritize.

**SUMMARY**

Over the past several years the Planning Commission has discussed a number of planning related issues and ideas and has expressed interest in having some of these topics included in the new Development Code. These are generally topics that were not included in the original draft of the Development Code but could be included in the final document or added to the current zoning ordinance. Staff has developed a summary of each of these topics for the Planning Commission's review and consideration. This is only a partial list, and additional topics will be presented for consideration in the near future. Based on the preference of the Planning Commission, staff will either include the topics as part of the proposed development code or if the P.C. prefers, prepare the topics for adoption in advance of the adoption of the complete development code.

**BACKGROUND**

Back in 1999, the City entered into a contract with the firm of Crawford Multari & Clark Associates for a major revision of the City's Zoning Ordinance. One of the basic issues that triggered the need for a new Development Code is the age of the existing Zoning Ordinance that was adopted in the mid-1950s. Because of the age of the document, some of the concepts and standards were out of date. The Zoning Ordinance also had certain inconsistencies with the General Plan which was updated in 1991.

The consultants began the process of preparing the new Development Code and worked with city staff and the Planning Commission to determine what the City wanted in a new Development Code and what issues or problems the City had with the existing Zoning Ordinance. One of the early directions they received from the City was to prepare a document that would retain some semblance with the current zoning code and one that would not be a radical departure from the current zoning practices. This was done for a number of reasons. First, the City did not want to make radical changes that would result in major portions of the City's existing uses or buildings becoming nonconforming or in major conflict with the new ordinance. Secondly, the City wanted to maintain a development pattern that would still be compatible with existing development in the

City, particularly residential development. The City hoped to update and upgrade the ordinance while still retaining development concepts that have made Lodi a special place.

The consultants worked on the Development Code for over a year, incorporating ideas and comments from the Planning Commission and City staff. Finally a preliminary draft Development code was being prepared in 2003. City staff was in the process of conducting a final review of the draft and working on a program to begin a public review and discussion process prior to the eventual adoption of the document by the Planning commission and City Council. At that point, the City decided to temporarily halt further work on the new development /Code and cancelled the contract with the consultants sometime in 2004. Work on the Development code was halted for two reasons. One was a staffing issue brought about by a hiring freeze and the departure of some key department staff which made dealing with the Development Code at that time difficult. The second issue was City budgetary constraints and the feeling that limited City resources could be spent on other projects.

In 2006, staff determined that the City should again proceed with the completion of the Development Code. In 2007 the City Council authorized staff to enter into a new contract with a sub-consultant of the original consulting firm of Crawford Multari to complete the work. Jacobson and Wack Consultants have been retained to complete the Development Code and are awaiting the City's direction on how to proceed. This firm did most of the writing of the original draft Development Code and is very familiar with the document and the City's existing Zoning Ordinance. It is expected that the new Development Code will not be ready for adoption until after the update of the General Plan is completed sometime in 2009.

City staff has outlined a number of issues that have been discussed by the Planning Commission either formally or informally over the years and summarized them into possible regulations that could be adopted as a part of the new Development Code. As an alternative, some of these items could also be adopted as a part of the City's existing Zoning Ordinance, ahead of the adoption of the new Development Code.

## **ANALYSIS**

The following are brief summaries of some of the topics that have been identified as being of interest to the Planning Commission for possible inclusion in the City's land use regulations:

### **Wireless Communications**

The City's Zoning Ordinance does not have any regulations specifically dealing with wireless communication facilities such as cell towers. This is because when the current zoning ordinance was adopted in the 1950s, commercial wireless facilities were much less common and were largely limited to radio or TV antennas towers. Because radio and TV towers were usually quite large, these types of structures were limited to industrially zoned properties in the City. Until recently, this set of regulations proved to be adequate. In recent years, we have witnessed the advent of the cell phone and the related need for cell phone towers. Unlike radio or TV towers that can transmit for many miles, cell towers have a much more limited range and are affected by buildings, hills or other obstructions. They are also affected by the number of people who are trying to use a particular tower for their cell calls. Because more and more people are using cell phones as their primary source of telephone calls, there has been a need for more cell towers to provide adequate coverage and capacity. As more people use their cell phones at home, having adequate coverage in residential areas becomes an issue. Some areas of the City, particularly the western part of Lodi, do not have many industrially zoned properties. Because of this, there has been increased interest in placing cell towers in locations that are not zoned industrial.

Approximately five years ago, staff put together a set of guidelines for wireless communications facilities. These guidelines were never formally adopted but have served as a guideline for regulating wireless facilities. The guidelines provided definitions, a general policy statement, a location criteria, and development and design standards. Generally, the guideline encourages cell phone transmitters to be located on existing buildings or structures or to co-locate on existing poles. In addition to allowing wireless communication facilities in industrial zones, the guidelines allow them to be located in C-S, shopping center zone with certain restrictions. These guidelines are being used by planning staff to establish standards for the location and design of cell towers.

Although the wireless communication facilities guidelines have helped in dealing with cell towers, staff feels that the guidelines can be further refined to add more clarity and uniformity to the document. Staff has prepared a draft of a revised Wireless Communication Facilities Ordinance for the Planning Commission's consideration. This guideline can be modified to add or delete language or conditions based on the desire of the Planning Commission. This document could be adopted in some form following Planning Commission input and formally made a part of the City's Development Code.

### **Residential Intensification**

Residential intensification is commonly defined as the reconstruction, expansion or replacement of an existing home in an established neighborhood such that the addition or new home is significantly larger and far out of scale and character with the existing neighborhood. This phenomenon is sometimes referred to as "mansionization". In extreme cases it can dwarf their neighbors, impact the privacy of adjacent homes, detract from the character of an existing neighborhood and cast shadows over surrounding yards.

The current Zoning regulations do not generally differentiate between new or existing residential neighborhoods. There is no cap on the maximum size of a house or addition provided that the setback and lot coverage regulations are met. The regulations are generally applied uniformly throughout the City. Issues of mansionization are more likely to be an issue in established neighborhoods as opposed to new subdivisions. In a new subdivision, houses tend to be built using a certain pattern of size and height and are often built based on a set of model homes offered by the developer. Additionally, a new home buyer can evaluate the house or neighborhood before they purchase the property. The problem is more of an issue in older neighborhoods where the pattern of development is already established. Many older neighborhoods have larger lots with more modestly sized homes. Additionally, in many Lodi neighborhoods, most of the houses tend to be single story homes. It is in these situations that a very large two story addition or new structure can more significantly impact the neighborhood.

There are three general approaches to address the issue of mansionization. One is to establish a set of standards dealing with height; lot coverage; setbacks; or even establishing a maximum building size limit. This would be a modified extension of the approach used in the current zoning ordinance that uses a set of building standards. This approach would be the simplest to enforce since staff could apply a set of specific standards to each application. The "one size fits all" approach does not deal with the variety of individual situations that can arise in different neighborhoods and may not lead to a better building design relative to the surrounding properties.

A second approach would be to take every residential application that falls within a certain established criteria and require an additional level of design review. There are design and architectural methods that can be used to reduce the appearance of size and improve the overall design of a residence relative to neighboring houses. The City could establish a set of architectural guidelines for applicants to follow and establish a formal review process. This

approach can be effective but is also more difficult from a review standpoint. Design and architectural standards tend to be somewhat subjective and difficult to quantify. Not everyone may agree on what constitutes good design or how best to reduce the impact on neighboring houses. Still, this approach may have the most affect on reducing the impacts of residential intensification.

A third option would be to establish historic neighborhoods and prepare guidelines for each neighborhood. The City could inventory each historic district and evaluate the existing housing style and architecture prevalent each area. This could also include the general size of buildings; the number of floors; the percentage of lot coverage; whether garages are attached or detached; the architectural style, etc. Based on these findings, a set of design guidelines could be developed that would provide applicants with a guide on how they should design new structures or major additions in these neighborhoods. These guidelines could also result in some overall foot print for the maximum size, height or lot coverage for a new or added-on unit. This would allow the regulations to reflect the unique characteristics of each neighborhood.

This approach could be effective in controlling oversized units if properly applied. It is, however, a very time consuming process, both to inventory each neighborhood and to evaluate each application. Also Lodi does not have many well defined neighborhoods and most neighborhoods do not have a prevailing style of architecture, making guidelines difficult to establish. It is questionable whether the City could commit sufficient staff resources to carry out this approach.

These are some ideas that the Planning Commission could consider if they decide to move forward with regulations dealing with the issue of residential intensification.

### **Freeway Commercial Overlay District**

The Freeway Commercial Overlay District (FC-O) proposal was initiated by City staff to address a request by a potential developer to construct a motel/hotel on Cherokee Lane that would exceed the two-story height limit currently found in the commercial corridor along Cherokee Lane. The City was concerned with the economic vitality of Cherokee Lane commercial corridor and enhancing the economic strength and aesthetic appeal of the street. The City is also concerned that economic barriers may exist that limit the development of more commercial lodging opportunities within Lodi. One solution, particularly for lodging establishments, is to permit additional floors of rooms, thereby improving the economic viability of the project. The District would be an overlay zone, meaning that it would overlay the existing C-2 zone on Cherokee Lane and would not change the underlying permitted commercial uses. The overlay zone would generally cover the Cherokee Lane commercial corridor extending from Turner Road on the north to Century Blvd. on the south.

The FC-O is intended to provide additional flexibility in the development of commercial properties along the Cherokee Lane corridor adjacent to Highway 99. The land uses currently permitted in the C-2 zone would remain the same. The overlay zone would only affect limited types of developments, primarily motel/hotel projects. Projects that qualify would be allowed to build to slightly different development standards than those currently in the Zoning Ordinance if they met certain specific criteria. As an example, they could be allowed to build to a floor area ratio (F.A.R.) of 2.0 or roughly four stories in height if they were granted approval. Projects would be reviewed on a case by case basis. While the height limit is the only exception currently envisioned, other development standards could also be modified and could be included in the FC-O regulations.

Staff has outlined some general criteria for a possible set of regulations. If the Planning Commission feels there is some merit to adopting the FC-O zone, they may consider adding other criteria or standards to the regulations.

### **Flag Lot Regulations**

The Planning Commission has dealt with the creation of flag lots on a fairly regular basis over the years. A flag lot is by definition a lot that minimally fronts or abuts a public street and where access to the street is limited to a narrow strip of land usually containing a driveway. Often there is an existing house on the front portion of the property adjacent to the street and the applicant wishes to create a new lot to the rear. As vacant in-fill land becomes scarce and more expensive, there has been a greater interest in creating lots on properties that are under-utilized or are larger than average in size. While the creation of flag lots can have some impact on the surrounding neighborhood, it is also one solution to providing affordable housing and to better utilize already developed in-fill properties that are already served by public streets, utilities and other community facilities.

Currently the City's Zoning Ordinance does not have language that deals specifically with flag lots. Flag lots are treated the same as normal lots with a few exceptions. Staff and the Planning Commission have had to modify the requirements for things such as lot width, setbacks and driveways in order to accommodate the unique characteristics of flag lots. This requires trying to judge each proposal on a case by case basis and can lead to inconsistencies in the application of standards. For this reason, staff is recommending the adoption of development standards that specifically address flag lots. We have put together some general standards that have been compiled from the discussions of the Planning Commission and from the past practice of City staff. These standards are fairly straight forward and some type of regulations could be easily crafted once the Planning Commission has had the opportunity to review the proposal and include their thoughts and suggestions.

### **Compact Parking Stalls**

The City often receives inquiries from architects or property owners regarding whether the City permits compact parking stalls for a portion of the required parking spaces on a project. Currently the City's parking design standards only permit full sized parking stalls. The one exception is for situations where the applicant has met their parking requirement with full sized stalls and has some other area of their property where additional parking could be accommodated but only with compact sized stalls. In those cases we have allowed a limited number of compact stalls.

Full sized parking stalls are generally 9'x20' for interior stalls and 10'x20' for end stalls (stalls adjacent to a landscape area, walk or building). Compact stalls are smaller, perhaps 8'x18' or even smaller. The advantage of allowing compact stalls are that it allows more parking spaces per given area, resulting in the more efficient use of land, less paving and more opportunities for landscaping. Compact stalls are usually combined with regular sized spaces, providing a mix of parking opportunities. Usually only a percentage of the total parking spaces are allowed to be compact stalls.

There are a number of advantages of allowing compact stalls. More parking spaces can be provided in the same size area compared to regular sized stalls. This can mean less areas of paving, lower cost to the property owner and more flexibility in the design of the property.

There are some disadvantages of allowing compact stalls. It reduces the number of stalls available to full sized vehicles; it makes getting in and out of vehicles a little more difficult; and it

makes maneuvering in and out of a parking space more difficult. It can also be a problem if people with smaller vehicles occupy regular sized stall, leaving only compact stalls for full sized vehicles. Policing what size of vehicle parks in what type of space could be a problem but it is not something the City would try to enforce on private property.

### **Downtown Parking Requirements**

There has been some discussion regarding the requirement for off-street parking in the Downtown area of Lodi. Currently all properties are required to provide off-street parking for any development within the City. The only exception is for a limited area of properties downtown that were a part of the original downtown parking district. These properties paid into a special fund to help build the City-owned surface parking lots scattered around the downtown core and also helped fund downtown parking enforcement of parking meters and parking lots. The parking district no longer is in operation but still exist on a map. Properties in the original district are not required to provide their own on site parking. Most are in areas close to either the surface parking lots on Church Street or the newer parking structure.

For the rest of the Downtown properties, potential developers must provide their own on-site parking if they want to build a new structure or significantly expand an existing structure. They can seek a waiver but it is not automatic. City staff feels that to require downtown businesses that want to build or expand may be restricting the development of new businesses in the downtown area. Most downtown properties are relatively small and the buildings are designed to occupy much if not all of their property. Additionally, the current thinking for downtown is to reduce the number of cars in favor of a more pedestrian and transit oriented design. Requiring more parking lots encourages more people to drive and makes the downtown less pedestrian friendly and less aesthetically attractive. It also creates more paved areas and less room for landscaping, commercial buildings and other amenities that would strengthen the downtown.

Reducing or eliminating the requirement for on-site downtown parking will make it easier for properties to be developed and make downtown properties more competitive with outlying shopping centers where space is more available for parking and land cost maybe relatively less expensive. If developers can utilize more of their downtown property for building space and less for parking, it will improve the economics of building downtown.

The Planning Commission may want to look at this issue possibly in conjunction with other efforts taking place downtown such as transit oriented development (TOD), Smart Growth initiatives, and the possible creation of new shared parking facilities downtown.

### **Heritage Trees**

In recent years, people have increasingly recognized the important role trees play in our environment. Healthy trees reduce air and noise pollution, provide energy-saving shade and cooling, furnish habitat for wildlife and provide an important aesthetic value to the landscape. Trees in urban settings are often lost to development or to simple neglect or disease. The purpose of a tree ordinance is to help preserve existing trees and in some cases to encourage the planting of additional trees. The types of tree ordinances that would be most applicable to the City of Lodi would be as follows:

#### **Street Tree Ordinance**

This type of ordinance generally covers the planting, maintenance and removal of trees in the public right-of-way. This type of ordinance usually states what type of trees can be planted in the right-of-way, who is responsible for the care and maintenance of the trees, and under what



circumstances the trees can be removed. This is the most common type of tree ordinance and is the closest to the type of tree regulations Lodi is currently working with.

#### Heritage Tree Protection Ordinance

This type of ordinance is directed at protecting large native trees or trees with historical or cultural significance, so called heritage trees. The ordinance specifies the standards for what constitutes a heritage tree and what can or can not be done to these trees. The standard usually defines a heritage tree by the size of the tree, the age of the tree or the specific species of the tree. It could also identify trees that have a special significance because of some historic or cultural event associated with the tree. A special permit is usually required before a heritage tree can be removed or significantly altered. This type of ordinance usually covers both private and public property, with an emphasis on heritage trees that may be threatened due to construction. As part of a heritage tree ordinance, a survey is generally required to identify all heritage trees within the City. This establishes a base-line to help the City determine if trees have been removed without proper permits and what trees should be protected.

Of the two types of ordinances, most common type of tree ordinance is the street tree ordinance that covers trees planted in public right-of-ways or on publicly owned properties. Lodi does not have a comprehensive tree ordinance but does have various regulations and guidelines that control what can and cannot be done with trees and other landscaping in the public right-of-way and in public parks and other public properties. The City has also done a comprehensive survey of all trees located on City property including streets and parks that list their location, variety, size and condition.

Heritage tree ordinances are less common and are usually found in jurisdictions that have a significant number of established native trees such as oaks or redwoods. These jurisdictions are usually located in places where there are groves of native trees that have been incorporated into the urban landscape or are in danger of being removed by encroaching development. Lodi does not have a significant stand of native trees except for the area adjacent to the Mokelumne River. There are mature trees scattered throughout the City but most have been planted as landscape trees and most are not native to this area. A significant difference between a heritage tree ordinance and the more common street tree ordinance is how the ordinance is applied. Street tree ordinances are generally applied to City owned trees on public property. Heritage tree ordinances usually apply not only to public trees but also to trees on private properties. This makes heritage tree ordinances more controversial since the ordinance could restrict what a property owner can do with a tree located on private property if the tree has been designated as a heritage tree.

The Community Development Department prepared a memo on the subject of tree ordinances and presented it to the City Council at a shirt sleeve session last year. After reviewing the information, the City Council decided not to move forward with a heritage tree ordinance at this time. It was their feeling that there was not a significant problem with trees being cut-down that would warrant adoption of a heritage ordinance at this time. The Planning Commission could however, recommend some type of ordinance to the City Council for their consideration.

#### Site Plan and Architectural Review

The Site Plan and Architectural Review Committee (SPARC) was formed by the City Council in 1970. The Committee was formed to assist the Planning Commission by reviewing plans and architectural drawings to help improve the site design and architectural quality of projects proposed for the City. SPARC is made up of five public members, four appointed by the City

Council and one appointed by the Planning Commission. The Committee is staffed by the Planning Division. The Committee meets twice a month or as required.

SPARC reviews all multi-family projects, commercial projects, industrial projects adjacent to residential or commercial zones and projects referred by the Planning Commission or City Council. The number of projects that SPARC reviews varies according to the level of building activity in the City. In the past, SPARC has reviewed as many as 43 projects in one year and as few as 5 projects. It should be noted that SPARC does not determine whether a project is a permitted use on a particular piece of property or judge the appropriateness of the project. This determination is made by the Community Development staff based on the Zoning Ordinance or by the Planning Commission through a discretionary review process. SPARC only reviews the design aspects of a project after the proposal has been determined to be a permitted use for a particular piece of property.

In recent years, there has been some discussion regarding the need for SPARC or whether there was a better process for reviewing the site plan and architectural merits of new projects. The issue was largely a result of some conflicting conditions placed on projects that were reviewed by both the Planning Commission and SPARC. This situation can come about when a project is reviewed by the Planning Commission for a Use Permit or other discretionary approval and the project is approved with a set of conditions. SPARC then reviews the plans and based on their review establishes an additional set of conditions. A problem can result if there are conflicting conditions between the Planning Commission and SPARC. While this is a fairly rare situation, the Planning Commission requested staff to explore whether there might be a better process to review new building projects to avoid this situation.

Staff concluded that there were three alternatives as follows:

#### Eliminate SPARC

In this alternative, SPARC would cease to exist and all site plan and architectural reviews would be done by the Planning Commission. This would mean that the Planning Commission would review the site plan and architectural elevations for all building projects that come before the Commission for a discretionary review such as a Use Permit or Variance. The P.C. would review the design aspects of the project as well as reviewing the land use aspects of the project. In addition, this would also mean that the Planning Commission would review projects that do not require a discretionary approval that requires P.C. approval, but fall within a category that would have required SPARC review, such as multi-family or commercial projects. As an alternative, non-discretionary projects could be reviewed by City staff.

#### Divide the current duties of SPARC between the Planning Commission and SPARC

In this alternative, the duties of site plan and architectural review would be split between the Planning Commission and SPARC. The Planning Commission would review the site and architectural design of all building projects that come before the P.C. for discretionary review. This would mean that the applicant would receive both their discretionary land use approval and their site plan and architectural review approval from the Planning Commission and would get a single set of conditions from the P.C. for their project. All other projects that do not require discretionary approval would continue to go to SPARC for site plan and architectural review and SPARC would develop the conditions of approval for the project.

#### Maintain the current SPARC system with better guidelines

In this alternative, the current duties of SPARC would remain largely unchanged. Instead, SPARC would be provided with a more extensive set of guideline to assist their review of building plans.

In addition to updated and more extensive design and site plan guidelines, a provision could be included that would restrict the ability of SPARC to modify any prior Planning Commission conditions on a project without the consent of the Planning Commission. For projects that do not go to the Planning commission, SPARC would be free to use their discretion on crafting conditions of approval based on the new guidelines.

Until such time a final decision is made, staff, in an effort to avoid future conflicts, is modifying the existing review process. Discretionary projects that are reviewed by the Planning Commission also have their site plan and architectural elevations reviewed and conditions established by the Planning Commission. Projects that do not require discretionary approval are reviewed by SPARC and the Committee determines the conditions to place on the project. The Planning Commission can select any one of the suggested alternatives, come up with different alternatives or combine aspects of any of the alternatives. Based on the Planning Commission's determination, a revised set of regulations dealing with site plan and architectural review can be written and adopted.

#### **ALTERNATIVE PLANNING COMMISSION ACTIONS**

- Direct staff to analyze some or all of these topics in greater detail and include them as part of the new Development Code adoption.
- Direct staff to analyze some or all of these topics in greater detail and adopt them into the existing Zoning Ordinance prior to adoption of the new Development Code.
- Take no action on any of these topics.

Respectfully Submitted,

Concur,

David Morimoto  
Senior Planner

Peter Pirnejad  
Planning Manager

# Item 6a.



## MEMORANDUM, City of Lodi, Community Development Department

**To:** City of Lodi Planning Commissioners  
**From:** Peter Pirnejad, Planning Manager  
**Date:** Planning Commission Meeting of 7/09/08  
**Subject:** Past meetings of the City Council and other meetings pertinent to the Planning Commission

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In an effort to inform the Planning Commissioners of past meetings of the Council and other pertinent items staff has prepared the following list of titles.

If you have any questions, please feel free to contact the Planning Department or visit the City of Lodi website at: <http://www.lodi.gov/city-council/AgendaPage.html> to view Staff Reports and Minutes from the corresponding meeting date.

Date	Meeting	Title
June 18, 2008	REGULAR	Adopt Resolution Authorizing the City Manager to Notify the U.S. Department of Housing and Urban Development (HUD) and San Joaquin County (SJC) of our Intent to Discontinue Participation in the Urban County for the 2009-2011 period, and our Intent to Receive Community Development Block Grant Funds Directly from HUD as a Metropolitan City. (CD)
June 24, 2008	SHIRTSLEEVE	PCE/TCE Work Plan for 2008/09 (PW)
July 1, 2008	SHIRTSLEEVE	Surface Water Treatment Facility Conceptual Design and Plant Feasibility Evaluation (PW)
July 2, 2008	REGULAR	Adopt Resolution Authorizing City Manager to Execute Master Agreement and Task Order No. 1 of the Harney Lane Widening Project with Mark Thomas and Company, Inc., of Sacramento (\$410,394); Appropriating Funds (\$500,000); and Authorizing City Manager to Execute Cooperative Agreement with San Joaquin Council of Governments for Funding of Task Order No. 1 and Associated Staff Costs (PW)
		Accept Lodi Avenue Design Guideline Report, Authorize Staff to Proceed with Preparation of Plans and Specifications to Construct Project, and Adopt Resolution Authorizing Staff to Submit Measure K Smart Growth Incentive Program Grant Application (PW)
		Introduce Ordinance Amending Lodi Municipal Code Chapter 5.32 "Massage Establishments" by Repealing and Reenacting Section 5.32.010 "Definitions" (CA)

**Continued on other side**

July 2, 2008 - Continued		Ordinance No. 1812 Entitled, "An Ordinance of the City Council of the City of Lodi Approving and Adopting the Redevelopment Plan for the Lodi Community Improvement Project" (CLK)
July 8, 2008	SHIRTSLEEVE	Storm Water Discharge Standards (PW)

# Item 7a.

**CITY OF LODI  
PLANNING COMMISSION  
Staff Report**

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**MEETING DATE:** July 9, 2008

**REQUEST:** Request by the Planning Commission that the Community Development Department consider drafting a Heritage Tree Ordinance.

**LOCATION:** A Heritage Tree Ordinance would apply City-wide.

**APPLICANT:** Community Development Department

**RECOMMENDATION**

Staff recommends that the Planning Commission not consider adoption of a separate Heritage Tree Ordinance at this time and possibly consider the matter in a different capacity at a future date as a part of the comprehensive update of the Zoning Ordinance/Development Code.

**SUMMARY**

At the request of the Planning Commission, staff has researched the issue of a Heritage Tree Ordinance. The ordinance, if adopted by the City Council, would become a part of the City's Municipal Code.

**BACKGROUND**

In recent years, people have increasingly recognized the important role trees play in our environment. Healthy trees reduce air and noise pollution, provide energy-saving shade and cooling, furnish habitat for wildlife and provide an important aesthetic value to the landscape. Trees in urban settings are often lost to development or to simple neglect or disease. The purpose of a tree ordinance is to help preserve existing trees and in some cases to encourage the planting of additional trees. With this in mind, the Planning Commission has requested that staff explore whether the City would benefit from a tree ordinance.

**ANALYSIS**

Most tree ordinances fall into one of three general categories:

Street Tree Ordinances

This type of ordinance generally covers the planting, maintenance and removal of trees in the public right-of-way. This type of ordinance usually states what type of trees can be planted in the right-of-way, who is responsible for the care and maintenance of the trees, and under what circumstances the trees can be removed. This is the most common type of tree ordinance and is the closest to the type of tree regulations Lodi is currently working with.

Heritage Tree Protection Ordinance

This type of ordinance is directed at protecting large native trees or trees with historical or cultural significance, so called heritage trees. The ordinance specifies the standards for what constitutes a heritage tree and what can or can not be done to these trees. The standard usually defines a heritage tree by the size of the tree, the age of the tree or the specific species of the tree. It could also identify trees that have a special significance because of some historic or cultural event associated with the tree. A special permit is usually required before a heritage tree can be removed or significantly altered. This type of ordinance usually covers both private and public property, with an emphasis on heritage trees that may be threatened due to construction activity. As part of a heritage tree ordinance, a survey is generally required to identify all heritage trees within the City. This establishes a base-line to help the City determine if trees have been removed without proper permits and what trees should be protected.



### View Ordinances or Solar Access Ordinances

These types of ordinances are designed to protect the rights of property owners that result from neighboring trees that block views or sunlight. The view type of ordinance is most common in communities that have varied topography that allow distant views and where scenic vistas are considered a valuable asset. A solar access ordinance would cover situations where one property's solar access maybe affected by surrounding trees on neighboring properties. This may become more of an issue as solar energy panels become more common in both residential and commercial projects.

The most common type of tree ordinance is the street tree ordinance that covers trees planted in public right-of-ways or on publicly owned properties. Lodi does not have a comprehensive tree ordinance but does have various regulations and guidelines that control what can and cannot be done with trees and other landscaping in the public right-of-way and in public parks and other public properties. The City has also done a comprehensive survey of all trees located on City property including streets and parks that list their location, variety, size and condition.

Heritage tree ordinances are less common and are usually found in jurisdictions that have a significant number of established native trees such as oaks or redwoods. These jurisdictions are usually located in places where there are groves of native trees that have been incorporated into the urban landscape or are in danger of being removed by encroaching development. Lodi does not have a significant stand of native trees except for the area adjacent to the Mokelumne River. There are mature trees scattered throughout the City but most have been planted as landscape trees and most are not native to this area. A significant difference between a heritage tree ordinance and the more common street tree ordinance is how the ordinance is applied. Street tree ordinances are generally applied to City owned trees on public property. Heritage tree ordinances usually apply not only to public trees but also to trees on private properties. This makes heritage tree ordinances more controversial since the ordinance could restrict what a property owner can do with a tree located on private property if the tree has been designated as a heritage tree.

### **CONCLUSION**

The Community Development Department prepared an informational item on the subject of a tree ordinance and presented it to the City Council at a shirt sleeve session last year. After reviewing the information, the City Council showed no interest in moving forward with a heritage tree ordinance at that time. It was their feeling that there was not a significant problem with trees being removed that would warrant adoption of a heritage tree ordinance at this time and that it might be better if the City addressed the issue as a part of the comprehensive update a new Development Code. The Planning Commission could however, recommend the adoption of a tree ordinance to the City Council prior to the final preparation of a new Development Code.

Respectfully Submitted,

Concur,

David Morimoto  
Senior Planner

Peter Pirnejad  
Planning Manager